



Saltwater Creek at Long Jetty is Wyong Shire's first accessible playground and features the Liberty Swing. The success of the collaborative design process was acknowledged at the recent Central Coast Recognition of Excellence ceremony.

ORDINARY MEETING

28 January 2009



MEETING NOTICE

**The ORDINARY MEETING
of Wyong Shire Council
will be held in the Council Chamber,
Wyong Civic Centre, Hely Street, Wyong on
WEDNESDAY 28 JANUARY 2009 at 5.00 pm,
for the transaction of the business listed below:**

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

RECEIPT OF APOLOGIES

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

Kerry Yates
GENERAL MANAGER

1.1 Disclosure of Interest

TRIM REFERENCE: D01540767

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

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

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

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

RECOMMENDATION

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

1.2 Proposed Briefings

TRIM REFERENCE: D01540776

SUMMARY

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

Date	Briefing	Description	Time	Presented by
28 January 2009	Mardi to Mangrove	Briefing on the Mardi to Mangrove procedure for land acquisition and easement compensation.	12.30 pm – 1.30 pm	Director Shire Services and Project Manager
28 January 2009	Shire Strategic Vision – Setting the Context	Briefing on community issues identified during extensive consultations	1.30 pm – 3.30 pm	Manager Community Strategic Vision
4 February 2009	Workshop	Various issues	12.00 noon – 6.30 pm	General Manager

RECOMMENDATION

That Council receive the report on Proposed Briefings.

1.3 Proposed Inspections

TRIM REFERENCE: D01540780

SUMMARY

Inspections proposed to be held on 28 January 2009 and prior to the second Ordinary Meeting are listed as follows:

<i>Date of Inspection</i>	<i>Location</i>	<i>Requested By</i>
28 January 2009	Proposed new Telecommunications Tower, Enterprise Drive, Berkeley Vale	Director Shire Planning
28 January 2009	Glenning Valley Subdivision Berkeley Vale Road, Glenning Valley (western side of Corona Lane – crest of hill)	Director Shire Planning
28 January 2009	Wadalba Subdivision 165 Louisiana Road, Kanwal	Director Shire Planning
28 January 2009	Wyong Police Station	Director Shire Planning

RECOMMENDATION

That Council receive the report on inspections to be conducted on Wednesday, 28 January 2009.

1.4 Address By Invited Speakers

TRIM REFERENCE: D01540787

SUMMARY

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

SPEAKERS	REPORT	DURATION
Mr Paul Levick, representing Threshold Developments Pty Ltd (in favour of the proposal)	3.3 Proposed 29 Lot Residential Subdivision at Wadalba	5 mins

RECOMMENDATION

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

1.5 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: D01540794

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 10 December 2008.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 10 December 2008.

ATTACHMENTS

1. Minutes of the Ordinary Meeting held on 10 December 2008

2.1 Proposed New Police Station at Wyong

TRIM REFERENCE: D01539992

SUMMARY

A development application for construction of a new three level police station (community facility) has been received by Council. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, and is recommended for approval. The development is beneficial to the Wyong town centre and broader community providing a modern policing facility for the Wyong region.

Applicant	United Group Services Limited
Owner	NSW Attorney General's Department - Wyong
Application No	DA/162/2008
Description of Land	Lot 1 DP 810492 No 6 Anzac Avenue Wyong
Proposed Development	Construction of a new three level police station building (community facility)
Site Area	4905m ²
Zoning	5(a) Special Uses – Council/Government Use
Existing Use	Courthouse parking and vacant land
Estimated Value	\$11,432, 000

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 1979 and other relevant issues with an indication that based in the information available to it, Council favours approval of the application subject to appropriate conditions of consent.***
- 2 That Council authorise the General Manager to determine any application for minor modifications to the approved development plans or consent conditions.***
- 3 That the conditions be referred to the NSW Police Force for its concurrence.***
- 4 That Council vary Development Control Plan 2005 Chapter 61, Carparking and Chapter 94, Location Criteria for Emergency Services Facilities, to permit the development.***

PRECIS

- The proposal is for construction of a new three level police station on the vacant area of the existing Wyong courthouse site.
- Thirty five parking spaces are provided on the site only for Police vehicles and six spaces to be provided along Hely Street for quick response vehicles.
- Variation is sought to the parking provision required for staff and visitors for the development.
- The site is subject to localised flooding and is in the vicinity of a local heritage item.
- No submissions were received in response to the notification of the application.

- Being an application from a State Authority, Council cannot place conditions on any approval without the formal agreement of the applicant.

INTRODUCTION

The Site

The site contains Wyong Court House on the southern half of the site with a vacant area on the northern half of the site. The site is bounded by Hely Street to the east, Anzac Avenue to the south, Pauline Lane to the west and an existing commercial building to the north. The site possesses a mild slope of around 2m from south-west to north-east.

The new police station is to be located on this vacant northern portion of the site which is a grassed and used for the informal parking of vehicles (particularly related to the courthouse operation). The site is low lying with a slope towards Hely Street and is subject to localised flooding inundation. There are existing scattered trees, a number of which are to be removed as part of the proposal. Existing on the site is a stormwater drainage easement and a sewer main which extends across the site. It is noted that bus services are available to the site within 400m walk of the new Police Station and Wyong Train Station is located approximately 600m walk of the new station.

The Proposed Development

The application seeks approval for construction of a new three level, police station to operate 24 hours per day, seven days a week as the Local Area Command (LAC) for Tuggerah Lakes District.

The new police station building has been designed to maximise two specific functions. The ground floor of the station has been delineated as an area for the purposes of every day active policing duties which includes the questioning/interrogating of individuals, detaining arrested suspects in holding cells, answering enquiries, emergency calls, storage of vehicles/equipment/weapons. The remainder of the building has been designed to be used for activities associated with the Tuggerah Lakes LAC including administrative tasks, rostering staff, purchasing equipment and other passive policing matters. Twenty four hour access is required to the site everyday of the year for both the general public and staff.

The proposal for the new Wyong Police Station will comprise:

- Parking for police related vehicles including:
 - on site parking for 32 vehicles in a two level carpark at the rear
 - one accessible space
 - two stacked spaces for the booze bus and police truck,
 - three bike parking spaces, and,
 - on street parking for six quick response police vehicles along the western side of Hely Street
- Custodial areas including an elevated custodial link to the court house for prisoner transfers
- Public enquiry areas
- Office areas, meeting rooms and other areas for general duty, LAC, detective and Crime Management Unit (CMU) staff
- Storage areas
- Toilets, lockers and a gymnasium
- Rainwater tanks for reuse within the development
- Landscaping and external works

The levels of the building have been designed to a height to mitigate impacts from the 1% Annual Exceedence Probability (AEP) effects of flooding on the building. The total gross floor area for the development is 3001m² over three levels. Parking for identified police vehicles only is provided on the site and is located at two levels, accessed from Pauline Lane at the rear of the building with one level located partially below ground.

The applicant's Statement of Environmental Effects (SEE) advises that parking on the site has been designed to accommodate a number of vehicles including 17 duty vehicles, 6 highway patrol cars, 2 crime scene unit cars, 1 minibus, 1 Random Breath Testing Truck, 2 rescue trucks, 1 trailer for trail bikes, 3 motorcycles, 1 boat and bicycles. In addition, on street parking has been provided for the 6 rapid response vehicles (originally five spaces proposed subsequently increased to six spaces under amended plans). A revision was made to this list deleting reference to the boat, two rescue trucks, and one Random Breath Testing truck. It is noted that these vehicles do not comprise vehicles currently stored at any of the three existing Police Stations.

There is no staff or visitor parking provided on the site, other than the one accessible parking space located within the front setback of the building. There was originally expected to be a total of approximately 195 employees associated with the station with a maximum of 100 employees present on a major shift. This figure was subsequently revised and reduced to a total of 153 employees with 86 present at the maximum shift.

The proposed new LAC combines the staff from three existing police stations, including Wyong Police Station, Toukley Police Station and The Entrance Police Station. It is noted that the existing Wyong Police Station has a total of 57 employees.

The proposed building will be constructed upon a post tensioned concrete slab, with walls constructed from brickwork at ground floor and lightweight cladding panels at first floor and above. The roof is to be a post tensioned concrete slab with a metal tray deck. The walls will include anodized aluminium framed glazing and selective sun shading devices.

Summary

During the assessment of the application, a number of issues were raised in relation to the proposed design of the development. The two critical issues that remained outstanding in relation to the proposal were:

- achievement of adequate flood protection and
- the resolution of appropriate parking provision for the development.

Amended plans and information were recently submitted to address the issue of flood protection for the building including satisfactory stormwater arrangements.

The issue of parking provision has not been satisfactorily addressed under the application. The applicant is seeking variation to Council's DCP Chapters 61 and 94 in relation to the requirement to provide adequate staff and visitor parking for the development.

VARIATIONS TO POLICIES

Clause	3
Standard	Variation to parking provision
DCP	Chapter 61 - Carparking
Departure basis	No provision of staff or visitor parking. Parking provision for police vehicles only

Clause	2.4(i)
Standard	Variation to parking provision
DCP	Chapter 94 – Location Criteria for Emergency

	Services Facilities
Departure basis	No provision for staff parking. Parking provision for police vehicles only

HISTORY

The application was lodged in February 2008 and correspondence was forwarded to the applicant in March 2008 raising the following issues in relation to the proposal.

- Flooding and stormwater
- Loading, manoeuvring, ramp grades and servicing
- Parking provision
- Parking layout/arrangement
- Pedestrian access and layout
- Fences and gates
- Building appearance
- Setbacks
- Additional plan details

During earlier discussions with the applicant, Council officers requested that consideration be given to the provision of one or two levels of basement parking for the development. This arrangement would allow for the accommodation of additional parking (ie: potentially 30 cars) in a design that takes advantage of the elevated ground floor level of the building (allowing for a partial basement beneath the building) thereby minimising the extent of excavation. The applicant argued that due to financial considerations and time constraints this alternative would not be considered within the parameters of this project.

In September 2008, Council wrote to the NSW Police Minister regarding the proposal, raising the following outstanding concerns:

- Flooding and drainage
- Parking
- Servicing and garbage collection
- Disabled access arrangements and landscaping

Amended stormwater plans were submitted on 15 December 2008 and amended architectural plans were submitted on 16 December 2008. These plans form the basis for the assessment and recommendations within this report.

The amended plans have addressed the concerns raised above with the exception of parking provision for staff and visitors. In correspondence submitted to Council on 9 December 2008, the applicant reiterated its position that the *“NSW Police Force only provides car parking for Police vehicles at new Police Stations and does not provide parking for staff and others. NSW Police Force cannot fund additional car parking as requested by Wyong Shire Council...(a)s a consequence of the recent mini budget cut of \$20m there is no possibility of increasing the project budget”* to fund additional parking as requested.

PERMISSIBILITY

The subject site is zoned 5(a) Special Uses – Council/Government Use under the Wyong Local Environmental Plan (WLEP) 1991. Under the 5(a) zoning, any purpose is permissible with consent provided that in accordance with Clause 10(3) of WLEP, the proposed use is compatible with the objectives of the zone within which the development is proposed to be carried out.

The objectives of the 5(a) zone are:

- (a) to cater for the provision of community and public facilities and services, and
- (b) to provide for any other development of land within this zone, with the consent of the Council, provided that:
- (i) the other development is ancillary to or related to the current or future use of the land for the purpose of a community or public facility or service, and
- (ii) the other development does not adversely affect the current or future usefulness of the land for the purpose of those facilities or services.

The proposed development is for the construction and operation of a new police station and would be defined under WLEP 1991 as a "community facility". 'Community facility' means a building or place owned or controlled by a public authority or a body of persons which may provide for the physical, social, cultural or intellectual development or welfare of the local community, but does not include a building or place elsewhere specifically defined in this clause.

The proposed development for a police station includes a new LAC for the Tuggerah Lakes Region. This development is compatible with the objectives of the 5(a) zone as the proposal involves the provision of community and public facilities and services.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- State Environmental Planning Policy No. 71 – Coastal Protection
- Wyong Local Environmental Plan 1991
- Wyong Shire Development Control Plan 2005
 - Chapter 7 - Wyong Town Centre
 - Chapter 14 - Tree Management
 - Chapter 50 - Guidelines for Advertising Signs
 - Chapter 61 - Carparking
 - Chapter 67 - Engineering Requirements for Developments
 - Chapter 69 - Controls for Site Waste Management
 - Chapter 70 - Notification of Development Proposals
 - Chapter 76 - Conservation of the Building Environment
 - Chapter 94 - Location for Emergency Services Facilities
 - Chapter 99 - Building Lines
 - Chapter 101 - Building Over and Adjacent to sewer mains
- Landscape Policy and Guidelines
- Waste Management Guidelines
- Wyong/ Tuggerah Planning Strategy

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment (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 PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv)):

State Environmental Planning Policy 71 – Coastal Protection

State Environmental Planning Policy (SEPP) No.71 – Coastal Protection applies to the development. The site is located within a sensitive coastal location under the SEPP and in accordance with Clause 7, the proposal has been assessed within the context of the matters for consideration outlined under Clause 8 and found to be satisfactory. The proposal has also been considered under Part 4 of the SEPP and is consistent with the aspects identified under this part. The proposal is considered consistent with the aims of the policy.

Wyong Local Environmental Plan 1991

Clause 10 - Zoning

The subject site is zoned 5(a) Special Uses – Council/Government under the WLEP 1991 and this zone permits any purpose with consent provided that the development is consistent with the zone objectives. The proposed police station is consistent with the zone objectives as it is a community facility providing a public facility and service.

Clause 15 - Acid Sulphate Soils

The site is identified as Class 5 - within 500m on the Acid Sulphate Soils Planning Map. There are no works proposed as part of the development that are likely to lower the water table in any adjacent Class 1, 2, 3 or 4 land to any point below 1m AHD.

Clause 23 - Flood Prone Lands

The proposed site of the new police station has a watercourse traversing the site. There is a pipe in the watercourse that conveys the minor flows across the site. For storms above approximately about a two year event, the water flows overland. The proposed police station will likely block off water from being able to flow overland across the site. Therefore a detailed culvert and pipe system was required to be designed to ensure the ability to convey this water so there is no increase in flooding for properties in the vicinity of the police station in a 1% (1:100 year) AEP event. The system has been designed with a 50% blockage factor in accordance with normal engineering practice, to ensure the system has efficient capacity if blocked by leaves and other debris.

The proposed culvert system will also convey some of Council's stormwater upstream of the site, as such the cost of construction of the culvert system will be apportioned based on the division of flows.

To ensure that the development of the culvert infrastructure is able to be completed concurrently with the construction of the proposed police station, Council has committed to undertaking an upgrading program for stormwater infrastructure upstream and downstream of the site. These works are identified in the rolling works program.

Council has also requested that the developer consider the effects on the Probable Maximum Flood (PMF) on the Police Station. As the development is classified as an emergency/critical facility, the NSW Floodplain Management Manual 2005 recommends that

the planning of floor levels and evacuation paths for the building be flood free (*for the safety of building occupiers*) and therefore must consider flood level impacts from extreme storm flows (*Probable Maximum Flood - an extreme flood event*).

Council's engineers consider that the PMF could possibly cripple the functions of the police station. The PMF has not been sized by Council and Council does not have any evidence that the developer has sized and assessed the PMF, however in the PMF it is likely that the low point in Hely Street will be flooded. The sub-floor car park will mostly likely be flooded and Pauline Lane will be flooded preventing exit from the raised car park.

Prior to occupying the building Council has requested that the applicant needs to consider the PMF, assess the consequence on the development and understand the effects on the operation of the police station. The floor level of the police station should be flood free in the PMF but an emergency management plan needs to be developed for the police station and its operations. A condition of consent is proposed to address this matter.

Clause 28 - Tree Management

There are 10 existing London Plane Trees within the development area, including three street trees, all in good condition. The proposal involves the removal of seven of these trees for the building footprint and associated access and parking. Another three of these trees will be impacted and will need to be removed under the required drainage works for the development. No objection is raised to their removal subject to conditions.

At the completion of this development and the associated drainage works the street trees will be replaced with advance plantings.

Clause 29 - Services

Water

The development can be serviced for water from an existing 100mm water main that is located on the eastern alignment of Hely Street. Council's existing water supply system is adequate to provide water services to the proposed development.

Sewer

There are four sewer junctions within the development site, one of which is located under the proposed building. The junction located under the proposed building must be plugged and the developer can then connect to any other existing available junction. Council's existing sewerage system can accommodate the above loading; however, the applicable Developer Servicing Plan (DSP) identifies some components of the downstream infrastructure that will require upgrading to accommodate the ultimate loading in this area. The cost of the upgrading works will be funded from the sewerage contribution charges paid by the applicant and undertaken by Council upon the appropriate trigger for the upgrade being reached. No details have been provided for the ramp to the underground car park. There appears to be a conflict with the proposed ramp to the sub-floor carpark and the existing sewer main. The applicant has not provided levels for the ramp in order to determine the extent of this conflict. This lack of information has been addressed under the conditions of consent.

Clause 35 – Development in the vicinity of heritage items

Clause 35 of WLEP 1991 requires that *Council must take into consideration the likely effects of the proposed development on the heritage significance of the heritage item...and its setting, when determining an application for consent to carry out development on land in its vicinity*. The proposed development is in the vicinity of a local heritage item being the Council building on the corner of Hely Street and Anzac Avenue (Item 73 of the Heritage Inventory). The statement of significance advises that the building is of historic significance for its

association with the evolution of government administration in the area. The proposal will not detract from the historic significance of this item but will serve to support the identity both past and present of the Wyong town centre as a centre for government administration and civic functions.

Wyong Shire Development Control Plan 2005

Chapter 7 - Wyong Town Centre

The development is consistent with the aims and objectives of Development Control Plan (DCP) Chapter 7 in facilitating development that enhances the character of the area, achieves complementary built forms and a high quality of urban design. The development will reinforce the cultural identity and unique character of Wyong as an administrative centre within the surrounding region.

It is noted that under the DCP, a heritage theme has been adopted for the Wyong Town Centre. Development is to be consistent with this adopted heritage theme. The DCP requires that new development is to consider the urban context within which it is located and design accordingly. It is noted that the closest heritage item to the site is the Council building located opposite the courthouse, on the corner of Hely Street and Anzac Avenue. This heritage item is of local historic significance for its association with the evolution of government administration in the area. The proposed new building is not within the immediate curtilage of the item, having the courthouse located between it and the item, however, it will likely be visible behind the courthouse and within the same streetscape. It is noted that the development will represent a new government administration building that serves to reinforce the role of Wyong as a centre for such activities.

The appearance of the new building will be modern in character, however, the proposed external finishes for the building include facebrick and grey colours that are generally consistent with the colour scheme outlined in the DCP. The applicant argues that the new building *“represents a distinctly individual but polite presence in the streetscape indicating a clear civic presence and a vitality of architecture that is clearly modern. The adjacent structures portray a mix of histories, near and distant, that are best served by an architectural gesture that permits them their own dignity...the proposal seeks to establish its own confident architectural presence that continues the architectural story but differs visually from its neighbours”*.

There is a height limit of between two and four storeys for the surrounding 3(a) zoned land. However, no specified height limit applies under Chapter 7 of the DCP for the subject site. The proposal has been assessed within the context of the following additional controls under the DCP including overshadowing, energy efficiency, privacy impacts, design considerations and is generally consistent with these DCP requirements. It is noted that contrary to the DCP adequate parking provision is not provided for the proposed development.

The development is considered to be compatible within the existing and likely future broader urban context. The development will include high quality external materials and finishes and provides landscaping that complies with the objectives of the urban design guidelines for Wyong as contained within the DCP (attachment 1).

Chapter 14 - Tree Management

There are approximately seven trees that will be directly affected by the new building and related access areas. All seven of the trees are located on the site within the building footprint or parking and driveway areas. There are three existing street trees located on the nature strip along the Hely Street frontage. All 10 of these trees (ie located on the development site and along the nature strip) are identified as London Plane Trees and are in good condition with a height of between 7 to 10m. The three existing street trees located on Council's nature strip are to be retained under the proposal. However, these trees are to be

impacted and likely removed by the drainage works included under the proposal. Council's Arborist Assessment Officer has reviewed the application and raised no objection to the removal of the trees subject to conditions including tree protection measures for the existing trees and replacement planting of trees to a mature height of 10m.

Chapter 61 - Carparking

DCP Chapter 61 does not identify the parking requirements for a police station. Instead, Chapter 61 requires that suitably qualified consultants be engaged to substantiate proposed parking numbers where no suitable standards exist under the DCP. The information submitted with the application did not adequately identify the parking demand generated by the proposal. Although the applicant submitted a traffic and parking report for the development proposal, the report only outlined the police vehicles associated with the development. No parking demand for visitor or staff was identified. Although it is acknowledged that the site is well serviced by public transport, there was also no supporting evidence provided regarding the number of staff or visitors likely to attend the site via public transport alternatives.

Based on a parking rate for 'commercial premises' under DCP Chapter 61 (ie one space per 30m² gross floor area), the floor area for the proposal (3001m²) would generate a demand for parking in the order of 100 spaces. Based on this commercial rate, the applicant estimated that the existing Wyong Police station (without the other two stations) required approximately 41 spaces (based on floor area of 1260m²). The applicant recently provided additional information regarding the specific numbers of staff to be based at the station. Calculated from this was an estimate of the likely parking demand associated with the proposal.

The applicant has detailed staff numbers at the existing Wyong Police Station being approximately 57. The estimated total staff at the new LAC building was revised to 153 with a maximum shift of around 86 employees. Based on these staff numbers, the development would generate a need for parking for 86 spaces. This figure includes change over shifts and a percentage of public transport users.

It is clear that the development does not provide a sufficient number of on-site spaces for the demand estimated to be generated by the development. Council has been advised that NSW Police maintain a strict policy that does not allow staff car parking on site at any Police Station. Police policy is that staff parking is not provided as part of the construction of any new Police Stations. This debate is discussed further under the assessment section of this report under the heading 'Parking. Therefore a variation to the DCP requirement is sought under the application in relation to the provision of staff parking for the development.

With no provision for staff parking on the site as part of the development, and no assessment by the applicant of the impact of the additional vehicles on the surrounding streets in Wyong Town Centre, some means to minimise the extent of the likely impact should be considered in order to enable Council's support for the proposal.

Therefore it is recommended that a condition be imposed on the consent requiring the applicant and Council to enter a deed of agreement prior to commencement of work for the provision of 29 carparking spaces within the Wyong Town Centre as a monetary payment or the equivalent provision of a material public benefit for the community to offset the cost of the required parking. In relation to the latter, discussions have taken place between the applicant, the Mayor and General Manager tabling the possible transfer of the existing heritage listed Police premises (at 10-12 Alison Road) to be provided as a material public benefit for the proposed development. Based on estimates for the construction of a future public carpark on the western side of Margaret Street, parking spaces were calculated at a value of approximately \$26,000 to \$31,000 per space. For 29 spaces this would equate to a upper figure of \$899,000. Council could hold these funds for the future development of the identified future carpark in Margaret Street, Wyong.

Being a Crown Authority the applicant is required to agree to any proposed conditions including the requirement for a deed of agreement for the provision of parking (including payment of money) or in lieu of this, the provision of an equivalent material public benefit. This will require negotiation with relevant parties prior to the final determination of the application.

Chapter 50 - Advertising signs

The proposal includes illuminated Police corporate signage with:

- An illuminated pylon sign to the Hely Street frontage (approximately 3 metres high),
- An illuminated hamper signage above the entry door
- Two flag poles (9m high) located within the front setback adjacent to the entry stairs

The proposed signage will consist of the standard NSW Police identification signage (ie. blue and white chequered signage with the words 'Police' in white lettering). The size and location of the signs comply with the provisions of the DCP Chapter 50 Advertising signs. The signage is in keeping with the scale of the development, does not obstruct traffic vision, and provides clear identification signage for the development.

Chapter 67 - Engineering Requirements for Developments

Council's Development Engineer has examined the proposed development in relation to the provisions of DCP Chapter 67 and as discussed under Section Clause 23 – Flood Prone Lands and has negotiated an appropriate drainage design for the site.

Other matters including sediment and erosion control, site works and works associated with the roadway, access, pedestrian paths and parking have all been addressed under the conditions of consent.

Chapter 69 - Controls for Site Waste Management

A separate waste storage facility will be included within the building at ground floor level adjacent to the secure custodial driveway. The applicant proposes that the development will be serviced for garbage collection by wheelie bins stored in the specified waste room located adjacent to the driveway. These bins will be presented kerbside in Hely Street for emptying. The applicant has outlined the ongoing waste management measures to be incorporated within the future development. A condition will be included requiring the preparation of a waste management plan for the construction of the development in accordance with the requirements of the DCP.

Chapter 99 – Building Lines

Under Chapter 99 of the DCP, the building lines within 5(a) Special Use zones are determined on merit, having regard to the character and placement of adjoining development. The proposed front setback for the new building is consistent with the streetscape and includes the provision of landscaping to soften the appearance of the building.

Chapter 76 - Conservation of the Built Environment

The development site is located opposite a local heritage item in Anzac Road. The heritage item is the Council building located opposite the courthouse on the corner of Hely Street and Anzac Avenue. It is noted that the portion of the site proposed for the Police Station is not positioned directly opposite this item and not within the immediate curtilage of the item. However, both sites contribute to the same streetscape (ie. Hely Street) and as such the development site would be identified as within the 'vicinity' of a local heritage item.

The proposed architectural design of the new Police Station building is deliberately modern in character. The proposed Police Station will reinforce the local historic significance of the area in its association with the evolution of government administration. The proposed style of architecture for the new building has a distinctly civic presence which emphasises and supports the social significance of the area for government administrative functions. The proposed building will not detract from the significance of the local item.

Chapter 94 – Location for Emergency Services Facilities

The proposal is considered consistent with most of the matters for consideration for the location of Emergency Services Facilities under DCP Chapter 94 including noise impacts, landscaping (category 3), safety and security, disabled access and water efficient design and stormwater management. However, DCP Chapter 94 requires under Clause 2.4(i) that on site paved and linemarked parking must be provided to cater for all staff. It is noted that the application does not comply with the provision and therefore seeks variation to this DCP requirement.

Wyong/Tuggerah Planning Strategy

In accordance with the Wyong/Tuggerah Planning Strategy, the role of Wyong includes the provision of *“the Shire’s central area for civic, health, post high school education and administrative services including enhancement of its role as a focus for community and social service providers.”* The proposal will assist in strengthening Wyong’s administrative and civic functions and enhance its role as a focus for community and social service providers.

An Urban Design Vision and Masterplan has been prepared in conjunction with the Strategy to guide development. This masterplan outlines what heights and form development should take. The site is identified as being within the business/administration precinct of the urban design vision and masterplan. This precinct provides regional administrative and commercial functions and civic functions associated with the Wyong Courthouse, Council Offices and Civic Centre.

The proposed design of the development complies with the maximum height of 6m identified under the character vision and statement for the site, and is generally consistent with the building footprint location contained within the masterplan. The proposal includes a lesser side setback to the existing courthouse than is shown under the masterplan. It is noted that one of the objectives identified under the strategy and masterplan includes the upgrade of the laneways as shared/vehicular/pedestrian zones. The proposed building setback along Pauline Lane for pedestrian access is consistent with this objective within the strategy. The overall design and siting of the development is considered consistent with the Wyong/Tuggerah Planning Strategy and its related guidelines under the masterplan.

Landscape Policy and Guidelines

Council’s Landscape Policy and Guidelines requires the landscape design for the development to be done as a Category 3 development that requires the expertise of an approved Landscape consultant. A landscape plan accompanied the application that complies with the requirements of the Landscape Policy. Council’s Arborist Assessment Officer has reviewed the plan and advised that it is satisfactory subject to conditions. The conditions include the requirement for planting of a species with a greater height at maturity within the front setback (ie. increasing the plant height from 5m to 10m). This is necessary in order to ensure adequate screening trees are provided to soften the appearance of the building.

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

Transport and traffic management

A traffic impact report has been submitted for the proposal. However, this traffic study contained a number of shortfalls. The original study examined and modelled the Anzac Road and Hely Street intersection as the car park was designed with its access via Hely Street (near this intersection). Under the amended plans submitted for the proposal (July 2008), the car park access was via Pauline Lane. However, the revised traffic study (dated July 2008) fails to assess and model the intersection of Pauline Lane and North Road, despite the majority of traffic for the development being directed to this intersection. The revised report also fails to address the increase in floor area included under the proposal instead using the original figures associated with the earlier plans.

Analysis of the existing traffic volumes along Anzac Avenue and Hely Streets and near the intersection of these streets show that traffic flows are well within the capacity level for the intersection. The police station was estimated to generate around 450 trips per day. The effects of these additional traffic flows on surrounding properties and road users would be minimal. Analysis of the Pauline Lane and North Road intersection has been required for the development as a condition of consent.

Parking provision

As outlined earlier in the report, there is an insufficient number of parking spaces provided on the site for the development. This is because no parking has been provided for the staff and visitors associated with the proposal (including delivery vehicles). Parking for the development totals thirty five (35) parking spaces on the site and six (6) along Hely Street. This includes:

- on site parking for 32 vehicles,
- one accessible space,
- two stacked spaces for the booze bus and police truck,
- three bike parking spaces, and,
- on street parking for six quick response police vehicles along the western side of Hely Street,

The applicant's report originally identified the vehicles associated with the development as including 30 Police cars, 1 minibus, 3 trucks, 3 motorcycles, 1 boat, a (trail bike) trailer, 9 bicycles. Under the revised information submitted for the proposal, the two rescue trucks, one Random Breath Testing (RBT) truck, and one boat were no longer included. In this regard, it is noted that these vehicles are not existing vehicles within the Tuggerah LAC and are therefore not currently stored at any of the three Police Station sites.

Council's DCP Chapter 61 does not specifically identify a rate of parking applicable to a police station, but requires that suitably qualified consultants be engaged to substantiate proposed parking numbers where no suitable standards exist under the DCP. The applicant provided staff numbers which estimated the staff parking demand generated by the new station as being approximately 86 spaces. Therefore there is an insufficient number of parking spaces provided on the site for the development.

Of additional consideration in respect of the parking shortfall on the site is:

- The commercial parking rate under DCP Chapter 61 assumes that vehicles using the parking spaces are used as employee transport to/from work. This is not the case with parking for the specialist/marked police vehicles as these vehicles cannot be utilised for employee transport to/from work.
- In addition to the shortfall in on-site parking provision, the proposal will increase on street parking demand within the streets surrounding the site due to:

- * The increase in staff numbers from the current Wyong Police station staff levels as a result of establishing a new LAC for the police station (from 57 to 153 staff).
- * The removal of the current informal parking arrangements on the site (ie. identified by the applicant as accommodating around 46 vehicles) which appears to serve as parking for the courthouse.
- * There is limited capacity for surrounding local streets to absorb the additional parking demand.
- * Central Coast suburbs are not adequately serviced by the existing rail network and the development will therefore not maximise the benefits from public transport use resulting from the issue of rail passes to staff.

Council's Development Engineer has advised that in order for Council to adequately assess the impact of the development on the area, the applicant's traffic report should have addressed the impact of not providing parking on the adjacent development and streets.

The applicant has stated its position as based on NSW Police Policy that dictates that no staff parking is to be provided on site for new stations. The policy requires that only parking for specified or marked Police vehicles is to be provided for new police stations. The applicant therefore seeks Council support for a variation to the requirement for staff and visitor parking on the following basis:

- Financial considerations resulting from recent State government budget cuts mean that there is no possibility of increasing the project budget to allow for the NSW Police Force to fund any additional parking.
- All police officers are issued with rail travel passes to encourage public transport use.
- Any Council requirement for a financial contribution in lieu of physical parking on the site would jeopardise the viability of the project.

The parking variation requested is therefore sought on the grounds that the new Police Station is a needed asset for the community and any insistence on the provision of parking (including a financial contribution) will likely compromise the financial viability of the project.

With no staff parking being provided on the site for the 86 employees at the largest shift for the Police Station, the proposal will result in an adverse impact on the availability of parking within the Wyong town centre. However, a condition is proposed to be included requiring that the applicant enter into a deed of agreement with Council to either provide a financial contribution to fund an additional 29 parking spaces within the Wyong Town Centre or construct the required spaces at their own cost or the provision of an equivalent material public benefit for the community to offset the cost of the required parking. The number of parking spaces is derived from the total number of employees being 86 at the maximum shift and the existing number of employees at the existing Wyong Police Station being 57 and subtracting the existing requirement from the proposed.

Parking layout and manoeuvring

Manoeuvring areas have been provided for the main servicing, loading and parking needs of the proposed development. It is noted that although the layout of the proposed car parking areas does not readily comply with the relevant Australian Standard, consideration has been given to the nature of future users of the proposed car parking. In this regard, members of the public will not utilise the car park as it will be solely for staff for the parking of specialised and marked police vehicles. On this basis the layout is considered acceptable.

Accessibility

An accessibility report has been submitted for the development outlining the design measures included as part of the development aimed at achieving compliance with the provisions of Australian Standard (AS) 1428 and the Disability Discrimination Act (DDA) 1992.

The development includes the following accessible measures:

- Unisex accessible toilets at ground level for public and staff and for staff at each of the other two levels of the building. The report recommends that the toilet in the custody area also be designed as accessible.
- One accessible off street parking space.
- A continuous accessible path of travel between the footpath, the accessible car space and the main building entry
- Circulation spaces in the public areas for paths, walkways, corridors, door openings, ramps and landings.
- Internal lift access from within the front door to all levels of the building for employees

In response to Council concerns, the front (public) entry to the building has been redesigned to include a ramp access. This amendment eliminated the separate external lift access to the building entry proposed for people with a disability and the subsequent cumbersome ramp design that occupied the majority of the front landscaped setback of the building. This revision to the plan was necessary to achieve equitable and shared access to the building for all visitors and staff.

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

The amended plans have addressed the initial concerns raised in relation to streetscape and pedestrian access. The front setback now contains an appropriately sized landscaped area fronting Hely Street. This landscaping visually links the site to the 'civic' landscape character of the Council and courthouse buildings within the street. Pauline Lane is regularly used as a pedestrian thoroughfare and a setback has been provided along the lane way for safe pedestrian access for staff and others traversing the laneway frontage of the site.

Water conservation

The proposal includes the collection of roof water for internal re-use in toilets and landscape irrigation. The overflow from the rainwater tanks will be directed to Hely Street. Conditions will be included in relation to the plumbing and maintenance of the proposed rainwater tank.

Energy efficiency and sustainable development

A sustainability report was submitted for the proposal. The report states that the building has been designed with conventional building services systems adaptable to support energy savings applicable to a 4.5 star Australian Building Greenhouse Rating (ABGR) rated building. Solar panels are proposed on the roof of the building for the hot water supply to the building and sun shading devices (including horizontal and fixed canopy sun shade louvres) are positioned on the external elevations of the building. Also included is R2.5 insulation to all external walls. Note: All insulation materials are rated for their performance in restricting heat transfer. This is expressed as an R Value. The R Value is a guide to its performance as an insulator – the higher the R Value, the greater the insulating effect.

Noise

An acoustic report was submitted with the application which identified the types of potential noise emitting activities associated with the proposal. The report states that physical noise control measures will be adopted for all plant and equipment where such plant cannot achieve compliance with the relevant environmental noise criteria. All new plant will be located at roof top level within a dedicated plant enclosure. There will be no external audible door or phone warning systems.

One primary source of noise likely to be emitted from the proposed development is the noise associated with the movement of vehicles. This includes noise from car/s moving, door/s closing, car/s starting, car/s accelerating and speech. However, it is noted that the site has sufficient separation distances from residential properties. The most significant noise generating plant is the condenser units associated with the air conditioning system for the building located on the rooftop. Assuming the most stringent environmental noise limit at the closest possible residential receiver location, the night time noise limit can be achieved by providing acoustic louvres (designed to provide a noise reduction of 5 dB(a)) between the condenser units and any residential building). In relation to vibration from plant, although this is expected to be imperceptible to nearby properties, any new plant is to be provided with vibration isolation as necessary.

The Acoustic Report that was lodged with the application recommends that a plan of management be adopted for the station. This plan will ensure that the use of sirens during the arrival and departure of police vehicles is limited wherever possible to ensure that adverse noise impacts are avoided at all times during the day and night. A condition will be included with the consent requiring that the development does not generate offensive or intrusive noise as defined under the Protection of the Environment Operations Act 1997.

Privacy and overlooking

There are a number of residential dwellings located to the west of the site. The building has been designed to minimise the potential privacy impacts to these surrounding activities through fixed metal louvres as screening measures on windows, and careful placement of windows and doors.

Solar access and over shadowing

Shadow diagrams have been prepared for the development at intervals of 9:00am midday and 3:00pm, on 21 March, 22 June, and 24 September. The diagrams indicate the scenario mid winter on the shortest day of the year as well as the more typical scenario for common shadowing impacts throughout the year.

The diagrams indicate that during the morning period shadowing resulting from the new building extends across Pauline Lane and adjacent parking areas, the western side of the courthouse and across a small section of the rear yard located at 21 Margaret Street. By midday, the shadowing has receded from Pauline Lane and confines itself to the subject site including the custodial driveway and a minor portion of the courthouse building. During the afternoon, shadowing from the development extends across the eastern side of the courthouse, across Hely Street and onto a limited portion of the site containing the Oasis Youth Centre.

The overall extent of shadowing impact resulting from the proposal is not significant or unreasonable. There are no significant or unreasonable amenity impacts resulting from solar access loss to surrounding residential activities as a consequence of the new building.

Safety, security and crime prevention

The principles of Crime Prevention Through Environmental Design (CPTED) have been considered under the design of the proposed new building. Entrapment spaces have been minimised and surveillance opportunities maximised. There will be security and access

control measures adopted both internally and externally as part of the operation of the station. Secure storage of equipment, vehicles, evidence, weapons etc. will be ensured as part of the future use of the site as a police station.

Groundwater

Council's Development Engineer has considered the impacts of groundwater in relation to the proposal. This matter has been addressed under the conditions of consent.

Any social or economic impact in the locality

The additional employment opportunities created as a consequence of the proposal will be economically and socially beneficial for the existing Wyong town centre. The proposal will result in direct and indirect employment opportunities for Wyong and its businesses, suppliers and support services. This centre already benefits from established public transport including a railway station and bus services. The construction of a modern policing facility for the Central Coast within Wyong will have positive implications for the growth of the locality.

Any impacts of construction activities

Conditions have been included requiring the adoption of sediment and erosion control measures and preparation of a management plan prior to commencement of works to minimise impacts during construction of the development.

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

The design of the proposed development is in an appropriate form, layout and scale that suitably balances the opportunities and constraints of the site. Suitable landscape screening has been included along Hely Street subject to inclusion of some taller trees. Adequate separation distances exist between the new building and surrounding residential activities. Although the site is subject to localised flooding, the impacts resulting from this site constraint will be minimised through adoption and construction of an appropriate stormwater system.

The site is located adjacent to the existing Wyong Courthouse and the design of the new police building will allow for the easy transfer and administration of prisoners between the two buildings. The limited parking availability may present as a constraint to the development, however, it is noted that the proposed site is located within an existing town centre that is well serviced by public transport. Anzac Road and Hely Street are capable of accommodating the additional traffic movements and the site is considered a suitable context for the scale and type of development proposed. The proposal will not adversely impact upon the amenity of surrounding uses. The proposal will result in direct and indirect employment opportunities for Wyong which will benefit existing businesses within the town centre. The 24 hour operation of the centre will not adversely impact upon any surrounding activities or land uses. The site is considered suitable for the proposed development.

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.

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

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

The proposal will result in the provision of a modern premises for policing activities within the broader community. The location of the new police station within Wyong town centre reinforces Wyong as a centre for administrative and civic functions for the Central Coast. There are no matters contrary to the public or community interest associated with the proposal.

CONCLUSION

The proposed construction of a new three level Police Station in Wyong will reinforce the role of the town centre as a regional administrative and civic focus. The proposal represents essential infrastructure for the Wyong town centre and broader Central Coast community. The development is positioned immediately to the north of the existing Wyong Courthouse and on the same site. This location (next door to the courthouse) is considered a suitable context for the scale and type of development proposed and allows for the complimentary functioning of both facilities on the site. The new building will contribute positively to the existing streetscape and heritage theme of the precinct and is considered to be in an appropriate architectural form, layout and scale that suitably balances the opportunities and constraints of the site.

With the exception of parking provision, the development is consistent with Council's LEP and DCP controls for the site. The applicant has argued that NSW Police apply a policy that does not allow for staff parking on new police station sites, therefore parking has only been provided for the Police vehicles within the development. In addition, the applicant has advised that the current financial climate including State Government budget cuts rule out the possibility of a monetary contribution for parking for the development.

The applicant has argued that the proposed variation to parking, although not desirable, is considered necessary on the following basis:

- The importance of the proposal to the Central Coast region and its community, and the economic benefits it will bring to the Wyong town centre.
- The financial viability of the project will be jeopardised if Council requires the provision of staff parking on the site or if a financial contribution is required from the applicant for the additional parking for the development.

However, the adverse parking impacts on the surrounding streets resulting from the additional employees for the new police station are significant. With no provision for staff parking on site as part of the development, and no assessment by the applicant of the impact of this to the surrounding streets of Wyong, some means to minimise the extent of likely impact should be considered in order to enable Council's support for the proposal.

Therefore a condition is to be included requiring the Council and the applicant to enter a deed of agreement prior to commencement of work for the provision of, or a financial contribution for the provision of 29 parking spaces within the Wyong Town Centre or in lieu of this, provision of an equivalent material public benefit for the community. In this regard, consideration could be made for the transfer of the existing heritage listed Police premises (at 10-12 Alison Road) to Council as an offset public benefit. This number of spaces is generated on the basis of the additional number of staff associated with the new Police Station at the maximum shift. Obtaining this agreement is necessary in order to address the likely impacts of the proposal upon the surrounding streets of the Wyong town centre.

The application is therefore recommended for conditional approval including a condition requiring the applicant's agreement for a financial contribution for parking within the Wyong town centre.

ATTACHMENTS

1. Locality Plan
2. Compliance Table
3. Development Plans

2.2 Acquisition of Easements for Mardi - Mangrove Water Supply Pipeline Link Project

TRIM REFERENCE: D01488889

SUMMARY

Approval is sought for the acquisition of easements required for the two water pipelines which are key elements of the Mardi to Mangrove Link Project, one in the vicinity of Old Maitland Road, and a second within Yarramalong Valley, between Mardi Dam and Bunning Creek Tunnel.

RECOMMENDATION

- 1** *That Council acquire the easements for water supply pipeline over the properties within Wyong Shire Council area as detailed in Schedule 1 and shown in Attachment 1 to this report.*
- 2** *That Council authorise the General Manager to pay compensation in accordance with the Land Acquisition (Just Terms Compensation Act), 1991 and the compensation elements approved by the General Manager as necessary for the acquisition of easements.*
- 3** *That Council arrange licence agreements with affected land owners to access to properties for construction purposes, prior to and during the construction period, and to pay a licence fee for such licence agreements as assessed by the Project's Valuers in accordance with procedures approved by the General Manager.*
- 4** *That Council proceed to compulsorily acquire the easements over the land in accordance with the provisions of the Water Management Act 2000, in the event that negotiations with affected landholders cannot be satisfactorily resolved within three months.*
- 5** *That Council proceed at the completion of construction works to compulsory acquire with agreement the easements over the properties which are the subject of Agreements for Easements, in accordance with the provisions of the Water Management Act 2000 and the Land Acquisition (Just Terms Compensation) Act 2000.*
- 6** *That Council authorise the exercise of its Powers of Entry in accordance with the Water Management Act 2000 to gain access to the land within Wyong Shire if negotiations with affected landholders cannot be satisfactorily resolved.*
- 7** *That Council obtain the prior approval of the Minister to appoint Authorised Officers in accordance with the Water Management Act 2000, where required.*
- 8** *That Council authorise the affixing of the Common Seal of the Wyong Shire Council to all documents relating to the acquisition of easements.*
- 9** *That Council authorise the Mayor and the General Manager to execute all documents relevant to the acquisition of the easements.*

BACKGROUND

The Mardi to Mangrove Link Project (M2M) is a key element of *WaterPlan 2050* which is the long-term strategy for securing the Central Coast's water supply into the future.

The M2M project will enable transfer of water from the Wyong River to the Mardi and Mangrove dams, boosting total water storage capability for the Central Coast.

The Project involves the construction of two in-ground water pipelines with associated pump stations:

- i 2.7km pipeline from lower Wyong River to Mardi Dam;
- ii 19km pipeline from Mardi Dam, through Yarramalong Valley to Mangrove Creek Dam (via Bunning Creek tunnel) .

The Project also involves the construction of two new water pump stations, and associated inlet and outlet structures at the lower Wyong River and Mardi Dam.

THE PROPOSAL

Council approved the Stage 1 route corridors (except Sector 6) for the two pipelines in June 2008. The pipeline corridors cross a number of privately owned properties (identified in Attachments 1 and 2 – Stage 1).

The Stage 2 pipeline route corridor through Sector 6 has been considered and recommended by the Gosford / Wyong Councils' Water Authority Board Meeting and was adopted by Council in November 2008.

Council needs to acquire easements over land for the purposes of constructing, operating and maintaining the two pipelines.

The easements over the affected properties will require payment of appropriate compensation in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

The Mardi to Mangrove Link Project team is currently working to negotiate the required easements with affected landholders. If negotiations are unsuccessful, Council will need to acquire any outstanding easements through the compulsory acquisition provisions of the Water Management Act 2000.

It is proposed that negotiations with individual landholders would continue for a period of three months. Meanwhile, the necessary preliminary steps enabling the compulsory acquisition process would be arranged from the outset, but would be implemented only if agreement with a landholder had not been reached after the three month negotiation period.

However, it is expected that negotiations would still continue through the compulsory acquisition process in an endeavour to resolve the matter in a consultative but expeditious manner. After construction, easements which are the subject of an Agreement for Easement will be vested via the 'compulsory acquisition with agreement' process under the Land Acquisition (Just Terms Compensation Act). This will enable the whole of the compensation payment to be made at the time the Agreement is entered into.

It may be necessary for Council to occupy a corridor generally 30m wide, greater than the proposed easement area generally 10m wide, to allow for construction associated with the pipeline. It is proposed to enter into a licence agreement where necessary with individual land owners that will allow occupation of the areas outside the easement area during the

construction period by Council. The payment for the licence fee will be assessed by a qualified valuer.

OPTIONS

- 1 Negotiate pipeline easements in accordance with the proposed pipeline route as recently approved by Council to enable construction of the Mardi-Mangrove Link Project to proceed in an orderly, timely and cost-effective manner.
- 2 In the event that the foregoing recommendations are not approved, the Project Team would not be authorised to acquire the necessary pipeline easements. This would significantly delay current critical project activities, and incur additional project holding costs. Further delays would also threaten essential Federal funding for the project. Eventually, the tender process for the Project would not be able to proceed in accordance with the Project Schedule, and the Project would come to a halt, thereby incurring significant delays and consequential costs.

STRATEGIC LINKS

Link to Key Focus Areas

<i>Key Focus Area</i>	<i>How the proposal contributes or links to the Key Focus Areas in Council's Management Plan</i>
Water Supply	The Mardi to Mangrove Link Project is a key element of <i>WaterPlan 2050</i> which is the long-term strategy for securing the Central Coast's water supply into the future.

Financial Implications

The costs for the following items have been included within the project cost estimates and funding for the acquisition of the pipeline easements has been provided in Council's 2008-09 budget:

- compensation for the permanent easement;
- construction licence fees for the temporary occupation of land and the temporary use of assets and facilities necessary for construction purposes;
- administration, survey, conveyancing and legal costs.

Principles of Sustainability

Council has previously considered this aspect.

CONSULTATION

Consultation was undertaken by the Mardi to Mangrove Project team and has been previously reported to Council in relation to the adoption of the route. Action to secure the easements commenced pursuant to instructions from Council's Manager Water and Waste following adoption of the pipeline route.

GOVERNANCE

Council must have regard to the following legislation in respect to the easements and acquisitions proposed:

- Local Government Act 1993.
- Land Acquisition (Just Terms Compensation) Act 1991.
- Water Management Act 2000.
- Conveyancing Act 1919.

CONCLUSION

Council must acquire the easements for the water supply pipeline over the properties within Wyong Shire Council area for construction of the Mardi to Mangrove Water Supply Pipeline to proceed on schedule.

ATTACHMENTS

1. Properties affected by proposed works (excluding Sector 6)
2. Pipeline Route for Easement Acquisition Including Sector 6

3.1 Notification of Dwellings Not Required to be Notified under Chapter 70

TRIM REFERENCE: D01539326

SUMMARY

Report on proposal to notify immediate neighbours in relation to approval of single storey complying residential housing development.

RECOMMENDATION

That Council adopt Option 1 as contained in this report as Council's procedure for the notification of single dwellings that are otherwise exempt from notification under DCP 2005, Chapter 70.

BACKGROUND

Council at its meeting held on 12 November 2008:

"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"

As part of the decision to adopt an amended Chapter 70, Council resolved that staff consider how Council could implement a policy of notification of immediate neighbours in relation to

approval of single storey complying residential housing development. This report outlines the options available to address this issue.

Council has now adopted the amendments to Development Control Plan (DCP) 2005: Chapter 70 – Notification of Development Proposals which commenced on 1 January 2009. The amendments recently adopted included the removal of single storey dwelling houses and single storey alteration/additions that comply with the provisions of Chapter 99 – Building Lines and Chapter 100 – Quality Housing from requiring notification. This will help to streamline the assessment process for dwelling houses that seek no variation to Chapters 99 and 100, and reduce delays in assessment and determination that result from the 14 day advertising period.

Council also resolved on 12 November 2008, while considering the amendments to Chapter 70, to consider a policy of notification of immediate neighbours in relation to approval of single storey complying residential housing development. The options for advising adjacent neighbours of development approvals that do not require formal notification are considered in this report.

OPTIONS

Option 1: Letter Following Determination

A letter could be sent out to neighbouring properties, following determination of the development application, advising that an approval has been granted by Council for the proposed works. This would be in a similar format to the letter that is sent out following the determination of a Complying Development Certificate. An example of this letter is included as Attachment 1. This letter could be generated and sent out as part of the determination process. A template could be produced and stored in Pathways, Council's electronic system for development assessment processing.

This option would ensure that owners are made aware of works that are approved on neighbouring properties and may help to reduce the number of complaints or queries that may be received once works commence.

This option is recommended.

Option 2: Letter on Receipt of Application

A letter could be sent to adjoining properties when an application has been received by Council for single storey dwellings or alteration/additions that comply with Chapters 99 and 100. However, this would be similar to notifying the application under Council's notification policy but without the opportunity for submissions. This could result in some confusion as there would be no opportunity to lodge a submission during assessment and the application may not be subsequently approved by Council, therefore leading to uncertainty.

This option is not recommended.

Option 3: No Letter or Notification

As Chapter 70 – Notification of Development Applications has been adopted and does not currently require notification of this type of development. As such there is currently no requirement to send out any form of notification letter. This option does not keep residents informed and may result in questions and complaints once building works commence.

This option is not recommended.

Who Will Be Notified?

Should Option 1 be implemented as recommended it is proposed to send the letter to adjoining land owners who include:

- Persons who own land that share a common property boundary with the site and land directly on the opposite side of a creek, road, pathway or similar thoroughfare; and
- Persons who own land within the Cities of Gosford, Greater Cessnock or Lake Macquarie which adjoin the boundary of Wyong Shire and the site which is the subject of the development application.

Where adjoining or neighbouring land is owned under Strata Title or Community Title, notification shall be sent to the Manager or Secretary of the Owners Corporation or Association.

Council will not separately notify the tenants of adjoining or neighbouring land of approvals granted.

Where adjoining or neighbouring land is owned by more than one person, a notice is only sent to one owner.

It should be noted that the above parameters are consistent with the notification procedure adopted in DCP 2005, Chapter 70.

NSW Planning Law Reforms

It should be noted that the planning reforms originally to be introduced from July 2008, have now been gazetted and are due to become effective in February 2009. Council is currently in the process of reviewing the implications of State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008, on Chapter 70. The intent of the new Housing Code is that many residential developments, including detached single and double storey dwellings, home extensions and other ancillary development can proceed on lots greater than 450m² as complying development. These certificates can be issued by Council or a private certifier and do not require any form of notification.

RELATIONSHIP TO WYONG LEP 1991

The amended DCP 2005: Chapter 70 Notification of Development Proposals which was adopted on 12 November 2008 commenced on 1 January 2009. As a result, the use of letters under Option 1 above could also be commenced immediately, involving any determinations that were completed between 1 January 2009 and the implementation of this new procedure. This is not a legislative requirement but an additional process that could be undertaken in Council's Shire Planning Department.

CONCLUSION

It is recommended that Option 1 requiring a letter to be sent out following approval of an application be adopted as a procedure for single storey dwelling houses or alterations/additions that are otherwise exempt from notification under DCP 2005, Chapter 70.

ATTACHMENTS
1. Sample Letter

3.2 Proposed Communications Facility at Berkeley Vale

TRIM REFERENCE: D01539882

SUMMARY

An application has been received for the erection of a new telecommunications monopole and associated infrastructure at 6 Apprentice Drive, Berkeley Vale (the site), to host Vodafone-Optus 'third generation (3G)' technology and Telstra 'wideband code division multiple access 800' technology. The site is located within the 4(a) *General Industrial Zone*, in which a *communications facility*, as defined in Wyong Local Environmental Plan 1991 (WLEP), is permissible with development consent from Council. The proposed development is compliant with all relevant environmental planning instruments and policies and is therefore recommended for approval by Council.

The application is referred to Council in line with the current Council resolution of 12 September 2007 which requires that applications for telecommunication towers be reported to Council pending preparation of an appropriate Development Control Plan (DCP).

Applicant	Vodafone Network Pty Ltd
Owner	Dempsey's Landscape Supplies Pty Ltd
Application No	DA/875/2008
Description of Land	Lot 6 DP 858455 No. 6 Apprentice Drive, Berkeley Vale
Proposed Development	Communications Facility
Site Area	4297m ²
Zoning	4(a) General Industrial Zone
Existing Use	Concrete Batching plant / Building and Landscape Supplies
Employment Generation	No
Estimated Value	\$170,000

RECOMMENDATION

That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions.

PRÉCIS

- The proposed development is consistent with the objectives of the 4(a) *General Industrial Zone* pursuant to the provisions of WLEP and is permissible with consent from Council.
- The applicant has provided information which indicates that the proposed facility will emit electromagnetic energy that will be no greater than 0.085% of the acceptable standard set by the Australian Communications and Media Authority (ACMA).

- In accordance with Development Control Plan 2005 (DCP 2005) Chapter 70 – *Notification of Development*, the proposal was not publicly advertised, as the proposed location of the facility is within an industrial estate.

INTRODUCTION

The site is situated at No 6 Apprentice Drive Berkeley Vale and is currently occupied by Dempsey's Landscape Supplies as a landscape and building supplies business and mini concrete batching plant. The site slopes toward Apprentice Drive to the north, and supports various buildings and structures used in association with the current use of the site. The site has frontage and legal access via Apprentice Drive in the north and is bounded by private lands to the west and east which currently support an indoor swim centre and a self-storage facility respectively. Immediately to the south of the site is a 15m wide tract of land owned by Wyong Shire Council which is zoned 6(a) *Open Space Zone*. This land is intended to provide a landscape buffer between the industrial lands and Enterprise Drive road reserve. Council as owner has given consent to the use of this land for landscaping in conjunction with this development application.

The nearest residential zone is located 350m to the south-east of the site, located on the other side of a ridge.

The applicant seeks development consent pursuant to Section 80 (1) of the Environmental Planning and Assessment (EP&A) Act 1979 for a communications facility comprising the following:

- One 40m high monopole structure;
- Three Vodafone panel antennas and three Telstra panel antennas, mounted on the monopole at an elevation of EL 35.7m;
- One Vodafone radio transmission dish (600mm diameter), mounted on the pole at an elevation of 33.6m;
- A Vodafone compound area (8.5m x 5.2m) housing one equipment shelter (3.0m x 2.5m x 3.0m height) with security fencing and gate;
- A Telstra compound area (6.5m x 3.2m) housing one equipment shelter (3.2m x 2.2m x 3.0m height) with security fencing and gate;
- Underground power supply connecting the services to each of the compounds;
- Installation of ancillary equipment such as cable ladders between the monopole and the equipment cabins, and underground fibre cables.

VARIATIONS TO POLICIES

Nil.

The Site

The site has historically been used for industrial purposes, and since the early 1990s a landscape and building supplies business has occupied the site. Various approvals have been granted by Council in relation to this use of the site, including:

- 1994 a storage building was approved on the site.
- 1998 an office building was approved on the site.
- 1998 a mini concrete batching plant was approved on site, occupied by Dempsey's Landscape Supplies Pty Ltd.
- 1999 a bulk cement storage silo was approved on the site. As part of this consent, Council approved a landscape plan in which the rear 3.3m of the site was to be landscaped.

PERMISSIBILITY

The site is zoned 4 (a) *General Industrial Zone* pursuant to the provisions of WLEP. The proposal is defined as *communications facility*, which is permissible in the zone and requires development consent from Council.

The objectives of the 4 (a) *General Industrial Zone* are as follows:

- “(a) to provide opportunities for the development of large scale industrial, service and storage activities which by nature of their operations should be isolated from residential areas, and*
- (b) to restrict commercial, retail or other development except where it is ancillary to the use of land within this zone for industrial, service and storage purposes, and*
- (c) to enable the Council to provide more detailed guidelines about industrial development in a development control plan.”*

The proposed communications facility is consistent with the objectives of this zone and is compatible with surrounding uses in this industrial location. The proposal does not impede the operation of the existing landscape and building supplies business and mini concrete batching plant on the site. Therefore, the proposed development is deemed to be compliant with the *zone* objectives identified above.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- Telecommunications Act 1997 (Commonwealth)
- Australian Communications Industry Forum (ACIF) Industry Code C564:2004 – Deployment of Mobile Phone Network Infrastructure
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55 - *Remediation of Land*
- State Environmental Planning Policy No 71 – *Coastal Protection*
- Wyong Local Environmental Plan 1991
- Development Control Plan 2005 Chapter 75 – *Industrial Development*
- Development Control Plan 2005 Chapter 29 - *Berkeley Vale Industrial*

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

The proposed development is considered unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The

proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments. The vegetation to be removed from the site will be replaced on the adjoining reserve to achieve a better environmental outcome.

ASSESSMENT

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

THE PROVISIONS OF RELEVANT PLANS AND POLICIES (s79C(1)(a)(i-iv)):

ACIF Industry Code C564:2004 – Deployment of Mobile Phone Network Infrastructure

This industry code operates under the authority of Part 6 of the Telecommunications Act 1997 to extend the obligations on carriers with regard to the consideration of electromagnetic radiation exposure and community consultation. The objectives of this code are:

- a to apply a precautionary approach to the deployment of radio communications infrastructure;*
- b to provide best practise processes for demonstrating compliance with relevant exposure limits and the protection of the public;*
- c to ensure relevant stakeholders are informed and consulted before radio communications infrastructure is constructed;*
- d to specify standards for consultation, information availability and presentation;*
- e to consider the impact on the well being of the community, physical or otherwise, a radio communications infrastructure; and*
- f to ensure Council and community views are incorporated into the radio communications infrastructure site selection."*

ACMA sets standards that limit human exposure to electromagnetic emissions (EME) under S. 376 (2) of the Telecommunications Act 1997 and S. 162(3) of the Radio Communications Act 1992.

ACMA adopted the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) Standard as the mandatory standard for human exposure to EME from mobile base stations. The applicant has provided information which indicates that the proposed tower will emit EME levels less than 1% of the level permissible.

3G networks generally use a higher frequency, in order to transmit higher rates of data used for sending video and graphics. On the basis that the range of radio waves decreases as frequency increases, the range for each 3G base-station is smaller than the earlier analogue or digital base-stations which mean more 3G base stations may be required to cover the same area. However, because it is more efficient to send 'packets' of data using 3G's smart encoding and because of the smaller area covered, 3G base stations operate with less power than earlier analogue or digital base stations. The Australian Communications and Media Authority has produced a fact sheet on 3G mobile phones, which explains that the electromagnetic energy emission levels produced by 3G transmitters are low. The average power is significantly lower than the power levels of some other common types of transmitters, such as two-way radios used by taxis and emergency services.

Levels of EME from mobile phone base stations are well below the limits specified by the ACMA. In fact, a nationwide study published in 2000 by ARPANSA found the typical exposure level from mobile phone base stations is hundreds and sometimes thousands of times below the regulated limit. To put this in perspective it should be noted that the standard itself already has a fifty-fold safety margin built into it, which is a significant precautionary measure.

State Environmental Planning Policy 55 – Remediation of Land

Section 7(1) of this Plan provides that a consent authority must not consent to any development unless:

- “(a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

Whilst the site is identified as being contaminated as a result of its current use for the purposes of landscape supplies and concrete batching plant, the proposed *communications facility* may be carried out on the site without the need for any remediation work. A minimal amount of excavation shall be required during the construction of the footings and installation of underground utilities.

State Environmental Planning Policy 71 – Coastal Protection

The site is identified as being on the periphery of the coastal zone. The proposed facility is consistent with the aims and objectives of this Policy as outlined in Cl. 2, and the proposal satisfies the matters for consideration under Cl. 8 and 13-16 of this Policy.

State Environmental Planning Policy (Infrastructure) 2007

The proposed telecommunications facility is permissible with development consent pursuant to Cl. 115 of this Policy.

DCP Chapter 75 – Industrial Development

Section 3.23 relates specifically to communications infrastructure, and incorporates objectives, performance criteria and prescriptive criteria. The proposed communications facility is consistent with the objectives of this Section, which are:

- *“To enable the provision of communications infrastructure on industrial sites and buildings*
- *To minimise the visual impact of communications infrastructure.”*

The following performance criteria are also considered to be met by the proposal, as follows:

- *“Communication infrastructure is located such that it is not visually intrusive. Where possible, all electricity and telecommunications supply to the development and throughout the site is to be placed underground.”*

Underground power supply is proposed.

- “A precautionary approach is adopted to the placement of communication infrastructure having regard to community concerns regarding the potential affect of Electro-magnetic Frequency Radiation.”

The ACIF Code outlines the steps telecommunications carriers must take when deciding the location of new mobile phone base stations. The ACIF Code requires carriers to take a precautionary approach and to consider ‘community sensitive’ locations such as schools, and balance this with other factors such as coverage objectives and engineering requirements when deciding on a base station site. However, the Code does not specify distances at which base stations must be constructed away from specific locations, on the basis that there is no science-based reason to do so.

The proposal will emit electro-magnetic frequency radiation at a level that is approximately 0.085% the permitted level. Whilst there is often community concern regarding the potential health risks associated with communications facilities, this level is well below the standard set by the industry code.

The proposal also satisfies the one applicable prescriptive criterion of the Chapter, which requires submission of all necessary information and detail at development application stage.

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

The relationship to the regional and local context and setting

The proposal, by its very nature, is required to be one of the tallest structures in the area to ensure comprehensive mobile phone coverage. Mobile phone base station antennas need to be located clear of obstructions such as trees and buildings to ensure good signal quality. As such, the only way to ameliorate the impact of such an installation is to locate it away from areas of natural scenic beauty.

The location of the communications facility is considered appropriate as it will be situated amongst industrial development with existing vegetation nearby. The site is distanced from residential areas, and generally only the topmost portion of the pole will be visible from a distance. Photomontages are provided as enclosures to the report.

At ground level, the proposed installation will integrate visually with the existing structures on the site and has the opportunity to be shielded from Enterprise Drive by vegetation, through appropriate conditions of consent to require landscaping within the Council land. A landscape plan is to be submitted and approved by Council prior to the commencement of works. Appropriate colours have been selected to minimise the visual impact of the proposed facility. Overall, the proposed development will have a minor visual impact if constructed in accordance with the recommended conditions of consent.

The access, transport and traffic management measures

Construction Access

Access shall be gained via the existing access way to the site from Apprentice Drive, and strictly not from Enterprise Drive.

Ongoing Access

Given that mobile phone base stations are unmanned and of low maintenance, operational visits to the site are expected to occur approximately three or four times annually. Access to the site shall be gained from Apprentice Drive only.

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

The proposed development will not have an impact on public recreation opportunities in the locality nor impede on the management of the public spaces in the area. The adjoining Council land is subject to Plan of Management No.5 - Community Use, and is categorised as being for 'general community use; infrastructure.' There are services on the Council land, located underground, and a water extraction point for water tankers.

The impact on utilities supply

Connection to water and sewer is not required for this proposal.

Any effect on the flora and fauna

The proposal will take place within the south-western corner of the property, in an area that has required to act as a landscape buffer under Development Consent 3127/1999. Given that the proposal will require removal of two trees and disturbance of low lying shrubs from this landscape buffer, it is recommended that the applicant be required to conduct compensatory planting within the adjoining Council land.

The adjoining Council land offers greater opportunity for high quality and substantial landscape planting than that which could be accommodated within a 3.3m wide strip on the private land. This will minimise the visual impact of the proposed communications facility when viewed from Enterprise Drive, and improve the overall visual amenity of this landscape buffer between Enterprise Drive and the industrial site. A detailed landscape plan and planting schedule to Council's satisfaction shall be required from the applicant prior to issue of a Construction Certificate for the facility.

It should be noted that the applicant for the current proposal lodged the application at a time when there was some vegetation cover provided within the road reserve, which provided a minor visual screen to the industrial sites at that time. The Enterprise Drive / Blade Close intersection was subject to some road and intersection upgrade work by the developer of the Blade Close subdivision in late 2008, and since this time the land is no longer vegetated in this location.

The Applicant has agreed to provide a landscaping plan to Council's satisfaction which includes to reinstate the vegetated buffer zone to Enterprise Drive. The Plant species are to be of a mature native variety endemic to these precincts.

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

The site is located within an area designated as being bushfire prone. It is considered that the presence of the communications facility will not increase the potential for bushfire in the locality and the site can be easily accessed if the need for defence from a bushfire arises. The aim and objectives of the Planning for Bushfire Protection 2006 have been considered in Council's assessment of the proposal.

Whether the development provides safety, security and crime prevention

The proposed development will be located within a fenced compound on private land, which will provide adequate security. A condition of consent would be a requirement to maintain the infrastructure in a graffiti-free state.

Any social impact in the locality

The growing demand for mobile phone services has resulted in the need for the proposed facility. The proposal will increase the availability and quality of mobile telephone services

within the locality, providing network services to the community, businesses, emergency services and travellers in the area.

The main difference between 3G and earlier generation networks is how quickly data can be sent and received (up to 40 times quicker), which means that with 3G technology, video, e-mail, and live television can also be sent and received. Smart 3G technology will also enable mobile carriers to know the location of each of the handsets connected to their service at any time, to within a few metres. This ability is very useful in time of emergency when a user is unable to tell emergency services their exact location, such as when a very young child calls '000'.

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

All construction work will take place in accordance with the Building Code of Australia and all relevant Australian Standards. It is not anticipated that the construction of the communications facility will have a detrimental impact on the environment. The trees and plantings to be removed from the site to allow for the proposed installation shall be compensated for by planting on the adjoining Council reserve.

The construction phase will involve approximately four vehicle movements daily, and work is expected to be completed within a six week period.

Any cumulative impacts

There is the potential for visual impact from the proposed monopole when viewed from certain directions in the surrounding area. The proposal has addressed these impacts through the following mitigation measures:

- The chosen site for the installation within an industrial area rather than any visually significant or sensitive locations.
-
- The design of the facility minimises bulk / visual intrusiveness through flush mounted antennas with minimal lateral protrusion.
- The proposed colour scheme blends visually with the surrounding environment; the monopole, antennas and dish be 'shale grey', the equipment cabins shall be 'plantation green' and the security fence will be black.
-
- The facility is located adjacent to Council land that is intended to serve as a landscape buffer, albeit bare at present, and this will assist in screening the facility in future.

Wherever possible, mobile carriers always strive to find a co-location opportunity for deploying a mobile phone base station, as the first port of call. This is largely in response to calls from the community for fewer towers. The current proposal will accommodate Optus, Vodafone and Telstra facilities.

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

Whether the proposal fits in the locality.

The proposed development is consistent with the objectives of the 4(a) *General Industrial Zone* and is deemed to fit within the character of the area, being on the periphery of an industrial estate. Generally the most suitable locations for telecommunications infrastructure are those that are not scenically significant, and are separated from sensitive land uses such as residential areas. With some landscape screening to be undertaken between the

proposed facility and the Enterprise Drive road reserve, it is considered that the facility can be suitably shielded from public view without compromising the effectiveness of the service.

Whether the site attributes are conducive to development

The existing use of the site will be unavoidably disrupted during the construction phase of the proposed installation, albeit to a minor degree. However, once installed the communications facility will not affect the ultimate operation of the existing concrete batching plant and landscape supplies business on site.

The siting of the proposed facility in the south-western extremity of the site was selected to minimise adverse impacts on the existing use of the site. However, this encroaches into an area of the site that was previously required by Council, under Development Consent 3127/1999, to be landscaped. It is considered that the need for this landscape screening is heightened by the absence of vegetation on the adjoining Council land, which is intended to serve as a landscape buffer to Enterprise Drive, but is currently bare.

It is therefore recommended that in granting development consent for the installation of the facility in the proposed location, the applicant be required to undertake planting of native vegetation on the adjoining Council land to screen the facility and the existing industrial use of the site, as discussed earlier in the report.

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

Any submission from the public.

Nil. The application was not publicly advertised given its location on and surrounded by industrial land.

Any submission from public authorities.

Nil.

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

Any Federal, State and Local Government interests and community interests

The proposed installation will improve the telecommunication services in the locality, to the benefit of the community. Should Council not approve the application, potential ramifications may include erosion of the quality of telecommunication services in the local area, such as poor reception, interference and unexpected drop-outs; and reduced competition in the telecommunications industry which could result in increased costs and reduced levels of service to customers.

It is considered to be in the public's interest to permit the proposed facility.

CONCLUSION

The key issues and potential impacts of the development have been identified as the potential for health risks, visual impact, and the impact of the construction phase. These issues have each been addressed in the report, and can satisfy Council's requirements to ensure potential adverse impacts are minimised through appropriate mitigation measures and conditions of consent. The proposal will satisfy the demand for communication services and improve the quality and coverage of services in the area. The minimal adverse

environmental impacts are outweighed by the significant socio-economic benefits to the community that the facility will offer.

The proposal is therefore considered worthy of Council support and approval is recommended, subject to adoption of appropriate conditions of consent, including the requirement for landscaping of the adjoining public land.

ATTACHMENTS

1. Locality Plan
2. Site Layout
 - Present Vodafone-Optus Coverage With the Proposed Facility
 - Proposed Vodafone-Optus Coverage
 - Photographs of Site
3. Photographs of Site
4. Development Plans

3.3 Proposed 29 Lot Residential Subdivision at Wadalba

TRIM REFERENCE: D01540068

SUMMARY

An application has been received for a 29 lot subdivision consisting of 27 residential lots, one lot to be dedicated to Council to form part of the Wadalba Wildlife Corridor and one residual lot. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment (EP&A) Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

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

Applicant	Everitt and Everitt Consulting Surveyors
Owner	Threshold Developments Pty Ltd
Application No	DA/1733/2007
Description of Land	Lot 311 DP 808521 (No 165) Louisiana Road, Kanwal
Proposed Development	29 Lot Subdivision
Site Area	8.908Ha
Zoning	2(e) Urban Release, 7(a) Conservation, 10(a) Investigation Precinct
Existing Use	Vacant

RECOMMENDATION

That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other relevant issues with an indication that based in the information available to it, Council favours approval of the application subject to appropriate conditions of consent.

PRECIS

- The proposal involves a residential subdivision of land zoned 2(e) Urban Release.
- The land has been specifically zoned for residential development with the potential impacts being offset through the preservation of land on the parent lot in accordance with the Wadalba Wildlife Corridor Management Plan.
- In accordance with the Management Plan the section of the subject site currently zoned 7(a) Conservation is to be dedicated to Council as a condition of consent for this subdivision, increasing the extent of environmentally sensitive land in public ownership.

- Concerns with regard to the site being potential habitat for newly identified threatened species and aboriginal archaeology have been addressed by the applicant and Council, including independent review and verification of both issues.

INTRODUCTION

The subject site consists of 8.908 Hectares of land located to the east of the newly established Wadalba township and directly to the south of the recently established Wadalba Sports Complex. The site is generally covered in vegetated open forest. Council's local water supply tanks and a communication tower are located (to the south) on land adjacent to the site. This site, known as Wadalba Hill is the highest point in the area and the subject site slopes generally from the south to the north away from this point. There are some cleared areas and there are former land uses evident such as a former dwelling site, abandoned sheds and a former quarry site.

It is proposed that the subject lot be subdivided into 29 lots as follows:

Proposed Lots 1 to 27 – Residential lots varying in size from 493.9 m² to 1383 m².

Proposed Lot 29 – 3.62 Ha of land to be dedicated to Council to form part of the Wadalba Wildlife Corridor.

Proposed Lot 28 – 2.72 Ha - Residual lot of 10(a) Investigation Land.

Residue lots are often created in subdivisions that contain the remaining land that is currently not available for residential use due to servicing, zoning or access issues. The proposed development (lots 1 – 27) is within a wooded area and requires the removal of the majority of the existing vegetation to permit the 27 residential lots, roads and services with appropriately located existing trees to remain. As such, issues of threatened species impact, bushfire protection, scenic protection and archaeological impacts were required to be addressed along with the issues of subdivision and road design. The applicant has adequately addressed these and all other issues that have arisen during the assessment process. The land that is the subject of the proposed residential subdivision has been specifically zoned for residential development with the impacts being offset through the preservation of land on the parent lot by way of the Wadalba Wildlife Corridor Agreement.

VARIATIONS TO POLICIES

Nil

HISTORY

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

On 25 February 2000 LEP Amendment No. 121 was Gazetted. This amendment to the WLEP 1991 rezoned the land into three separate zones being 2(b) Multiple Dwelling Residential, 7(a) Conservation and 1(c) Rural Holdings. Since this time the land was again rezoned under LEP Amendment No. 135 with the 2(b) section of land being rezoned to 2(e) Urban Release and the 1(c) land being rezoned to 10(a) Investigation Precinct.

On 5 October 2001 an application to subdivide the 2(b) residential land into 32 lots was submitted. This application was later withdrawn. The extent of potential environmental impact was central to the consideration of this application as it was for other similar applications lodged for subdivision in the Wadalba Urban Release Area during this time. Resolution of these issues resulted in the introduction of the Wadalba Wildlife Corridor Management Plan in 2006.

On 14 January 2008 a minor “land swap” subdivision between adjacent land owners was approved to permit the orderly development of the subject land and the adjoining land to the west.

PERMISSIBILITY

The subject site is zoned 2(e) Urban Release, 7(a) Conservation and 10(a) Investigation under the WLEP 1991. In accordance with Clause 13 of the plan, subdivision is permissible with consent.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- Wyong Local Environmental Plan 1991
- Development Control Plan 2005 – Chapter 49 – Warnervale East and Wadalba North West Urban Release Area
- Development Control Plan 2005 Chapter 14 –Tree Management
- Development Control Plan 2005 Chapter 66 –Residential Subdivision
- Development Control Plan 2005 Chapter 67 –Engineering Requirements for Development
- Policy L1 –Landscape Policy and Guidelines
- DCP 2005 Chapter 70 -Notification of Development Proposals
- Threatened Species Conservation Act
- Management Plan for the Wadalba Wildlife Corridor
- Central Coast Regional Strategy
- Section 94 Contribution Plan No. 7A –Warnervale East and Wadalba North West

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations.

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

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

Requirements of the Threatened Species Conservation Act 1995 - Department of Environment and Climate Change Deemed Concurrence

The Wadalba Urban Release Area is bounded by the Pacific Highway in the north and west, Johns Road in the south and the formed and unformed sections of Louisiana Road in the

east. The Wadalba Wildlife Corridor consists of an area of land that extends from the north-west corner to the south-east corner of the Wadalba Urban Release Area.

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

Agreement was reached that through the establishment of the Wadalba Wildlife Corridor and the preparation of the Wadalba Wildlife Corridor Management Plan, DECC would be in a position to issue deemed concurrence to subdivision applications in the Wadalba Urban Release Area. The deemed concurrence permits Council to assume DECC's approval for ecological impacts associated with vegetation removal, providing they occur in accordance with the concurrence terms being in this case the Management Plan. This deemed concurrence has been issued by DECC to specify its requirements for subdivision proposals in case they are deemed to have a significant impact occurs within the meaning of the EP&A Act (1979) and Threatened Species Conservation Act (1995) (TSC Act) upon locally occurring threatened species, endangered populations or endangered ecological communities.

Council's assumed concurrence does not negate the relevant provisions of Section 5A of the EP&A Act (1979). Each Development Application still requires a seven part test to be prepared and submitted to Council with the Development Application. The concurrence also only extends to those species listed under the TSC Act at the time of the agreement.

A Deed of Agreement exists between Council and landowners within the Wadalba Urban Release Area. This Deed of Agreement has been prepared which requires additional developer contributions to be made to Council for the clearing of native vegetation. These funds have allowed Council to expand the size of the Wadalba Wildlife Corridor over and above what originally existed. Council to purchase parcels of property within the Wadalba Wildlife Corridor currently under private ownership. In circumstances where the landowner possesses land that is within the Wadalba Wildlife Corridor, this land may be transferred to Council as part payment or in lieu of contributions depending on the agreed value of the land. After acquisition these lands will be zoned 7(a) Conservation under the WLEP 1991.

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

The current application is consistent with the agreement and the management plan.

Requirement of the Wyong Local Environmental Plan 1991

The subject site is zoned 2(e) Urban Release, 7(a) Conservation and 10(a) Investigation under the WLEP 1991. In accordance with Clause 13 of the WLEP 1991 subdivision is permissible with consent.

The detailed work undertaken in the preparation of the Wadalba Wildlife Corridor Management Plan provided an opportunity to investigate the potential of the 10 (a) Investigation Precinct Land. The Management Plan identifies the land immediately to the west of the proposed residential subdivision as being suitable for the Wildlife Corridor (The Deed of Agreement does not require the dedication of this land at this stage but rather when the future of the residual 10(a) lot is finalised). The Management Plan also identified that a small portion of the 10(a) land should be absorbed into the residential land. The rezoning of the potential corridor land is yet to occur.

Proposed lot 5 and a small portion of proposed lot 9 shown on the development plans are partially within the 10(a) zone and the 2(e) zone. This raises an issue with regard to potential land uses in the 10(a) zone, as residential subdivision is not permissible.

Clause 13(5) of Wyong LEP 1991 states:

“Subdivision of land within Zone No 10 (a) to create additional lots is prohibited.”

However Clause 30 of Wyong LEP 1991 states:

“(1) Subject to subclause (2), development which is permitted within a zone may, with the consent of the Council, be carried out on land in an adjacent zone other than Zone No 6 (b), 7 (d) or 7 (e) within 20 metres of the boundary between the zones.

(2) The Council may grant consent under to the carrying out of development pursuant to subclause (1) only where the carrying out of the development is necessary, in the opinion of the Council, due to planning, design, servicing or similar requirements relating to the optimum development of land to which this plan applies.”

The objective of this clause is to allow development to occur on sites adjacent to adjoining zone boundaries where sufficient information is available to indicate that the zone boundary does not best represent the potential of the subject land.

As mentioned above the Wadalba Wildlife Corridor Management Plan has endorsed that this land is suitable for residential use. Council's Future Planning Unit has indicated that this zoning anomaly will be amended in the future as part of the comprehensive LEP process. Therefore it is appropriate that lot 5 be extended 20m within the current 10(a) zone and that proposed lot 9 also partially extend into the 10(a) zone.

Site layout

The requirements for the subdivision layout are set out in Development Control Plan (DCP) 2005 – Chapter 49 – Warnervale East and Wadalba North West Urban Release Area and DCP 2005 Chapter 66 –Residential Subdivision.

The proposal complies with the requirements of Chapter 66 including lot layout, size and orientation. Chapter 49 provides specific requirements for development in the Warnervale/Wadalba area.

A comprehensive survey of local conditions has resulted in the concept road layout indicated in Chapter 49 being altered due to steep gradients. As such the road location shown on the Chapter 49 Concept Plan would require significant excavation some of which would be within the 7(a) Wadalba Wildlife Corridor. Plans have been amended to reduce excavation by eliminating the loop road joining Raintree Terrace with the road known as “The Ridge”. All sites within the subdivision can still be adequately accessed and provision has been made for emergency vehicle access. The Rural Fire Service (RFS) has granted its concurrence to this design layout.

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

The relationship to the regional and local context and setting

The proposed subdivision is consistent with other approved and proposed subdivisions within the immediate and surrounding locality. The zoning of the site allows for the release of urban land and complies with Council's vision for the area.

The access, transport and traffic management measures

The required road widths are to the satisfaction of Council's Design Engineer. The subdivision design can adequately cater for the access, parking and traffic impacts.

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

The proposal provides a pedestrian linkage for residents to the adjacent sporting facilities.

The impact on utilities supply

Assessment indicates that the site can be adequately serviced with water and sewer.

The effect on heritage significance

The issue of potential impacts on aboriginal archaeology was raised during the assessment process. The application was supported with a study of the site by the Darkinjung Aboriginal Land Council (LACC). The study indicated that there were no aboriginal cultural heritage constraints to development in this area. This report is consistent with the Consultant's study conducted at the time of the rezoning of the land in 2000. Following consultation with DECC a further study of the site was undertaken by an independent consultant including further consultation with the LACC. The conclusions of this report are consistent with those listed above and conclude there will be no impact on items of heritage significance as a result of this application.

Any effect on other land resources

The land is not noted as being of significant value for agricultural or mineral resource use. The majority of the site drains to the Porter's Creek Wetland catchment. Conditions of consent are proposed to ensure that water draining from the site will be of appropriate standard.

Any impact on the conservation of water

Conditions of consent will require that current best practice for water management will be implemented. The additional housing which will eventually be constructed has been envisaged as part of the likely population expansion in the area. All dwellings will be required to meet Council and State Government water saving standards.

Any effect on the conservation of soils or acid sulphate soils

Conditions of consent require current best practice in soil preservation to be employed during the construction of the development.

Any effect on quality of air and microclimate conditions

The applicant will be required to ensure that air quality is maintained during construction.

Any effect on the flora and fauna

The applicant's environmental consultants undertook a Threatened Species Assessment of the site to determine the Flora and Fauna Species on the site and to provide an assessment in relation to threatened species in accordance with the TSC Act and the requirements of Section 5A of the EP&A Act 1979.

Three threatened fauna species were recorded on the site being the Powerful Owl, Squirrel Glider and the Eastern False Pipistrelle. No threatened flora species were observed within the subject site.

During the assessment process the Wyong Sun Orchid (*Thelymitra sp. Adorata*) was listed as critically endangered. Following confirmation from DECC that the Deemed Concurrence for the Wadalba Corridor only applied to threatened species and their habitats at the time the agreement was executed, the applicant was required to provide a seven part test for the site. In subsequent surveys the species was not detected and was considered unlikely to occur on the subject site. This information was reviewed by an independent ecologist engaged by Council who confirmed these findings.

Of the three fauna species identified on the site the only species with potential breeding areas on the subject site is the Powerful Owl. Recommendations of the Flora and Fauna Statement and Vegetation Plan submitted by the applicant's environmental consultant are to be adopted as conditions of consent ensuring any impact on threatened species is mitigated and any impacted fauna can be relocated/maintained in the Wadalba Wildlife Corridor

The provision of waste facilities

Conditions of consent will require the satisfactory storage and disposal of waste during construction. Dwellings will be serviced by Council's waste service in the future.

Whether the development will be energy efficient

All dwellings will be required to meet Council and State Government energy saving standards.

Whether the development will cause noise and vibration

The applicant will be required to ensure that relevant noise standards are observed during construction.

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

The site is bushfire prone and located within a mines subsidence district. The comments of the RFS and Mines Subsidence Board (MSB) have been provided. All civil works are to be completed to Council standards.

Any risks from technological hazards

There is no known history of contamination issues on this site.

Whether the development provides safety, security and crime prevention

The lot layout is considered to be satisfactory and raises no significant security concerns. The completion of the local road network replacing the current "dead ends" will increase natural surveillance in the area.

Any social impact in the locality

Appropriate community facilities, sporting facilities and other infrastructure have been constructed or are planned for the Wadalba area. The likely future population increase envisaged for this locality have been considered. The residential subdivision of this land is recognised in DCP 2005, Chapter 49. The additional 27 residential lots can be adequately catered for in the Wadalba area without any significant social impact on existing residents and will provide a suitable environment for the future residents.

Any economic impact in the locality

There is no evidence to suggest that the completion of the subdivision in this locality will have a negative economic impact.

Any impact of site design and internal design

Subdivision design is considered satisfactory.

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

Construction impacts will be controlled by conditions of consent.

Any cumulative impacts

The cumulative impact of the vegetation removal in the area is addressed by the creation and preservation of the Wadalba Wildlife Corridor.

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

The assessment of the application indicates that the site is suitable for the proposed subdivision.

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 11 submissions and one petition of 50 names being received. Though notification ended 18 January 2008 it should be noted that some of these submissions were received up to August 2008. These submissions have been accepted and assessed as part of the assessment process. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the EP&A Act 1979. A summary of the submissions is detailed in Attachment 2.

*Any submission from public authorities.***Rural Fire Service (RFS)**

The site is located on bushfire prone land. In accordance with Section 91 of the EP&A Act the proposed subdivision is considered to be Integrated Development requiring the concurrence of the RFS.

The RFS has reviewed both the initial and amended plans and has agreed to grant a Bushfire Safety Authority subject to conditions of consent.

Mines Subsidence Board (MSB)

The site is located within a Mines Subsidence District. In accordance with Section 91 of the EP&A Act the proposed subdivision is considered to be Integrated Development requiring the concurrence of the MSB.

The MSB has reviewed the proposal and has granted concurrence subject to conditions of consent.

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

The proposed development is consistent with the relevant Plans and Policies of Council and with the Central Coast Regional Strategy.

OTHER MATTERS FOR CONSIDERATION

Contributions

Contributions for the additional 27 residential lots under the Warnervale District Contribution Plan are applicable.

Contributions for Water and Sewer under the Development Servicing Plan for Warnervale East/ Wadalba North West are applicable.

A Deed of Agreement exists between Council and landowners within the Wadalba Urban Release Area. This Deed of Agreement has been prepared to require additional developer contributions to be made to Council. These funds allow Council to purchase additional parcels of land within the Wadalba Wildlife Corridor. In circumstances where the landowner possesses land that is within the Wadalba Wildlife Corridor, this land may be transferred to Council as part payment or in lieu of contributions depending on the agreed value of the land.

CONCLUSION

The application provides for the orderly development of this land for residential purposes as required by the relevant Plans and Policies of Council. The issues of environmental and archaeological concerns have been addressed. The proposed development will have an acceptable impact on the surrounding environment and is consistent with the objectives of the zone. The proposed subdivision is recommended for approval.

ATTACHMENTS

1. Locality Plan
2. Summary of Submissions
3. Development Plans

3.4 Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley

TRIM REFERENCE: D01570199

SUMMARY

An application has been received for a subdivision in 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 and other statutory requirements with the issues requiring attention and consideration being addressed in the report. This application would have been determined under normal staff delegation however, the application was called up to Council by a Councillor.

This application was deferred from the Council meeting on 10 December 2008 for a site inspection. In accordance with the resolution it is being represented to Council following the site inspection by Councillors held on 28 January 2009.

Applicant	Optima Pty Ltd
Owner	R & B Sheen
Application No	426/2008
Description of Land	Lot 111 DP 777284 Berkeley Road, Glenning Valley
Proposed Development	2 lot subdivision
Site Area	8,591m ²
Zoning	7(f) Environmental Protection

- 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 conditions.*
- 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

- Land is zoned 7(f) "Environmental Protection" under Wyong Local Environmental Plan 1991 (WLEP 1991) comprising an approved and constructed dual occupancy residence.
- Proposal involves subdividing the land into two allotments, each lot containing a half of the dual occupancy.
- The subdivision proposal represents a 99% variation to the minimum standards of WLEP 1991 which identifies 40 hectares per lot.
- Applicant's use of State Environmental Planning Policy (SEPP) No 1 to the minimum LEP standards is not supported.

- Council does not have concurrence from the Department of Planning (DoP) for SEPP 1 for this extent of variation. If Council was to support this application the DoP would be requested to provide concurrence. It is considered extremely unlikely that such concurrence would be forthcoming.

INTRODUCTION

At its meeting held 10 December 2008, Council:

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

That Council defer determination of this application to enable an inspection by Councillors.

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

AGAINST: COUNCILLORS McBRIDE, MATTHEWS, SYMINGTON, VINCENT AND WYNN.

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

The site inspection was held on 28 January 2009.

The Site

The subject land is a parcel of 8,591m², with frontage to Berkeley Road at Glenning Valley. Two residences are located on site in the form of an approved dual occupancy. The remainder of the land has a scattering of native tree cover.

The site adjoins the residential zone of Berkeley Vale to the east and is approximately 950 metres (direct line) to the nearest industrial zone in Enterprise Drive. Apart from the eastern residential neighbours the site is mostly surrounded by the 7(f) “Environmental Protection” zone.

The Proposed Development

Consent is sought for a subdivision of the land into two allotments. A subdivision layout has been submitted proposing a new boundary between the dual occupancy buildings thereby establishing each proposed lot with a residence.

As a result each parcel would be substantially less than the minimum dimensional standards in WLEP 1991 which identifies a standard of 40 hectares per lot. It is noted that the existing lot is already substantially less than the subdivision criteria.

In order to gain consent to subdivide the land, the application is accompanied by an objection under SEPP 1 to the WLEP 1991 standards, which if supported by Council, would need concurrence from the Department of Planning (DoP).

SEPP 1 is a planning policy established by the NSW State Government to enable a level of flexibility within development standards. 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 in the circumstances of the particular case. However, in this case, it is recommended the SEPP 1 objection not be supported. The body of the report provides detail as to the reasons for refusal.

VARIATIONS TO POLICIES

<i>Clause</i>	<i>14(2)</i>
Standard	40 hectares
LEP	Wyong Local Environmental Plan 1991
Extent of variation/departure	98% for proposed lot 1111 99.5% for proposed lot 1112
Departure basis	Not supported – see report for detail

HISTORY

Lot 111 registered on 17 August 1988 from subdivision of lots 11 and 12 DP 707339.

On 6 July 1993 approval was granted to DA 291/93 for a Dual Occupancy on lot 111. Works commenced soon after. There remains an issue of non compliance in that the two dwellings were never physically attached as per condition No 11.

On 28 August 2007, Council reviewed a preliminary application (PL/12/2007) for subdivision of the subject land. The advice provided is detailed elsewhere within the report.

STATUTORY PROVISIONS AND RELEVANT STATE/COUNCIL POLICIES AND PLANS

Environmental Planning and Assessment Act 1979

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.

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. Accordingly the application was referred to the NSW Rural Fire Service (RFS).

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

State Environmental Planning Policies

The application is subject to SEPP 1 which is detailed further in this report.

Wyong Local Environmental Plan 1991

Subdivision is defined in Section 4B – *Subdivision of land*, under the EP&A Act 1979. Although not specifically defined in Clause 7 – *Definitions*, of WLEP 1991, the development is referred to as “Subdivision” in Clause 13 – *Subdivision of Land*, under the WLEP 1991 and is permitted with consent.

The land is zoned 7(f) “Environmental Buffer”. The zoning was introduced in 1986 to coincide with the introduction of major industry in the Berkeley Vale district with the general intent to provide separation between the industrial zones and residential zones.

The 7(f) zone objective is:

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

The 7(f) zone limits the scale of development permitted to the following land uses:

“Advertisements; agriculture; bushfire hazard reduction; communication facilities; dams; drainage; dual occupancy buildings; dwelling-houses; education establishments; group homes; home businesses; home occupations; nutrient control facilities; places of worship; plant nurseries; recreation areas; recreation facilities; utility installations”.

Clause 14 of the WLEP 1991 provides criteria for the subdivision of land within the above mentioned zoning. There are several sub parts to Clause 14 each addressing different types of subdivision. It is the applicant’s contention that the proposal is assessed under Clause 14(2), a sub part of the clause that sets the minimum dimensional standard for land affected by the subject zone.

Clause 14(2) 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 subclasses (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;*

The subdivision is unable to comply with the WLEP 1991 provisions and accordingly a formal objection to the standards has accompanied the application. The objection is discussed in more detail in the body of this report.

Development Control Plans

The proposed development has been assessed 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 14 – *Tree Management*
Chapter No 69 – *Waste Management*

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 relevant key issues, which are elaborated upon for Council’s information. Other aspects for consideration area either not relevant to the application or deemed to satisfy Council’s assessment.

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

Discussion and assessment of Subdivision Strategy

Preamble

In recent years, the owners of the subject land have engaged Council in discussions concerning subdivision or rezoning the land.

In 2004, the applicant enquired into the possibility of subdividing (or rezoning) the land. Council responded in writing on 16 February 2004 by indicating that it would be unlikely to

support either a rezoning or subdivision of the land. Council's response concentrated on the zone objectives, specifically the acoustic issues arising from the intent of the 7(f) zone.

In response to the 2007 preliminary application, Council provided the following advice (extract):

"The subject land is zoned 7(f) Environmental Protection with an area of 8,591m² and presently contains an approved dual occupancy. The application was assessed in accordance with relevant statutory and development standards and guidelines. Subdivision standards for 7(f) zones are contained in Clause 14 of Wyong Local Environmental Plan 1991. The minimum standard for this zone is 40 hectares per allotment.

A comprehensive report was prepared and presented to Council's Development Assessment Panel (DAP) for review. However the depth of a preliminary assessment can be restricted by the quality of information submitted with the application.

The decision of Council was that it would be unlikely to support any subdivision of the land under its present zoning. DAP considered that the 7(f) zone aims to restrict development on land affected by major hazards such as noise generated by the nearby industrial estates. It was the panel's considered opinion that the proposal to subdivide the land into two allotments would not gain support from the appropriate level of delegation in Council or gain concurrence from the Department of Planning based on previous experience on such matters. The panel further indicated that the only potential for subdivision of the land would be compliance under an appropriate zoning".

The key to the current application is the relevance of the 7(f) zone in addition to the physical attributes such as the presence of the two dwellings on site. On the latter point, the two existing dwellings were to be joined by a covered breezeway, being a common design at the time for rural dual occupancies. The dual occupancy development was finalised in December 1994 and it is apparent the breezeway has subsequently been removed. Therefore, for all intents and purposes, for a considerable period of time there has appeared to be two separate dwellings on site, although this is not legally consistent with the dual occupancy approval.

Property and Zoning Summary

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

The current lot status: Lot 111 = 8,591m²

The proposed lot arrangement: Lot 1111 = 6,770m²
Lot 1112 = 1,821m²

Subdivision Strategy – Clause 14(2) of WLEP

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 98% for proposed lot 1111 and 99.5% for proposed lot 1112.

The applicant lodged a preliminary submission in 2007, drawing comparison with other nearby approvals. It was noted (and mentioned in Council's 2004 letter) at the time that several of the nearby approvals cited by the applicant were granted during the period of 1997 – 2001, a time when the LEP contained a clause that specifically applied to land affected by two or more zonings. Those circumstances have since been deleted from the LEP and the comparison to those situations/approvals is now irrelevant.

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) can be varied under SEPP1.

SEPP1 provides flexibility in the application of planning controls operating by virtue 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.

A Land and Environment Court judgement outlined a procedure comprising a series of questions for considering SEPP1 objections. This application has been assessed in accordance with these procedures. See "Attachment" for a full copy of the applicant's SEPP 1 objection.

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

Putting a numerical description onto the minimum subdivision lot size permissible within particular zones classifies this as a development standard.

The extent of departure to the minimum standards of Clause 14(2) is 98% for proposed lot 1111 and 99.5% for proposed lot 1112.

It is noted that the use of SEPP 1 to vary the development standards to this extent would require concurrence from the Department of Planning to allow Council to approve the application.

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

With reference to the zone objectives and the 40ha minimum lot size standard, the purpose of these standards is to limit the scale of development carried out on land possessing conservation or environmentally sensitive values. In this regard the standard is set to protect the land from major noise generating development of the Berkeley industrial estates.

The applicant places most significance on the intent of the zone and its relevance today. The zoning was introduced in 1986 primarily to protect the urban release areas (now established) and scenic protection zones from the impending development boom of the Corella Close, Enterprise Drive and Catamaran Drive industrial precincts.

The land was previously zoned 1(c), identified at that point of time as a "Holding" zone for future investigation purposes. Ultimately the 7(f) zone evolved with the introduction of the industrial estates nearby.

The 7(f) zone objectives are:

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

The site is about 1.45km from the closest major noise sources, being the "Sanitarium" and "Mars Foods (Masterfoods)" industrial complexes. Both of these premises operate 24 hours a day. Other industrial land with small scale uses is as close as 950m. Also several industrial properties along Enterprise and Apprentice Drives are yet to be developed. The zone objective tries to restrict development that may not be compatible with noise generating industrial development.

Although acoustic assessments have been undertaken in recent years to support other cases for nearby development proposals, to date a comprehensive up-to-date noise investigation has not been prepared for the subject site.

Thirdly, does compliance with the development standard tend to hinder the attainment of the objects specified in S.5 of the EPAA?

The objects of the "Act" are to promote acceptable land management through the orderly use of the land. Compliance with the subdivision standards in general does not hinder the maintaining of appropriate management of land consistent with the 7(f) zoning.

The question more appropriately put is whether there can be an expectation suggesting the subject land has not achieved its full subdivision potential. It is Council's opinion that applying the standard is fair and reasonable because the land has reached its potential in terms of subdivision. It is considered that the approved dual occupancy is a fair development outcome for the land as one whole parcel.

The applicant perceives the zoning to be irrelevant based on the changing nature of the acoustic environment over the past 20 years since the 7(f) zone was introduced. The fact is that Council has had no reason since the adoption of the 7(f) zone to re-examine the purpose of the zone and undertake a rezoning. Council may consider the appropriateness of the 7(f) zone as part of the Comprehensive LEP Review.

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

Firstly, it is fair to acknowledge that the land in any circumstance has insufficient dimensional area to comply with the provisions of Clause 14. The minimum standard is 40ha per lot; therefore for a subdivision to comply, the land would need an existing area of 80ha to create two lots. The land is 8,591m². The real question is should the existing allotment, already substantially less than the minimum standards be reduced and thus further erode the LEP provision.

Reasonable circumstances of a case must be established in order to substantiate the necessity to vary the development standards. Council's assessment reveals that there are no circumstances considered appropriate to warrant relaxing the LEP subdivision standards any further than the present dimensional land opportunity.

Fifth, is the objection well founded?

The applicant's objection is not considered to be well founded with no grounds for Council to recommend approval of the application. The objection does not prove that the standards hinder the potential of the land. The objection merely suggests that based on the present residential circumstances, in which two dwellings exist, then both should be able to stand alone on separate titles. This report, while recognising the current residential entitlements also considers the zone objectives and the significance of compliance with Clause 14(2)

In summary, Council does not 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 WLEP 1991.

Draft SEPP - "Application of Development Standards"

In respect to SEPP 1, the DoP exhibited a draft instrument, *SEPP - Application of Development Standards 2004*, which outlines proposed changes to the policy. The draft was exhibited in 2004, though to date gazettal of the draft is not imminent.

The draft policy is designed to provide a better environmental planning outcome with due regard to the public interest by establishing parameters for, in this instance subdivisions of certain zones. The main difference from the current SEPP 1 to the draft policy is that the draft specifically states numerical criteria to apply to a subdivision scenario.

In accordance with Section 79C(a)(ii) of the EP&A Act, a consent authority must consider any draft state policies. Therefore, a brief assessment of the proposal with regard to the draft policy is required.

The proposed development would not comply with the criteria of the draft SEPP in that it would comprise of two allotments unable to meet the dimensional area criteria of the minimum LEP standards as set by the draft policy. Therefore the use of the SEPP with respect to varying the provision of Clause 14(2) could not be considered if the draft policy was gazetted.

The access, transport and traffic management measures

Berkeley Road has been recently upgraded including pavement resealing and erection of safety guardrail along the frontage of the site. The speed limit for this section of the road is 50kph.

While there are no major traffic safety problems, should the application be approved the developer would be required to construct a concrete section of driveway for the approach to the road.

The impact on utilities supply

The subject land is not connected to Council's sewer infrastructure with each residence of the existing dual occupancy served by separate on site waste management systems.

The applicant has submitted documentation indicating that an agreement has been reached with an adjoining land owner allowing an extension of Council's sewer main from the current junction near Bettong Lane, through their property to the subject land. However connecting to the sewer is not a prerequisite of the application to subdivide in the 7(f) zone and therefore no further investigation in terms of design has been undertaken by either Council or the applicant.

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

Bush Fire

A bush fire assessment accompanying the application revealed the need for asset protection zones (APZ's) for both lots in order to protect the existing residences from the threat of fire. While the land does not achieve the protection measures currently, it is understood that the land can accommodate the APZ's should the application be approved.

Several other recommendations were also made including reference to building construction standards. On this issue, no details were provided with the application; therefore compliance with the recommendations is uncertain.

Any Strategic Implications from the proposal

The proposed subdivision represents the separation of the approved dual occupancy, effectively promoting one dwelling on each allotment. Further development of each proposed allotment is limited under the LEP; however it is possible that an additional occupancy could be established to each dwelling on each lot in the form of an attached dual occupancy, a

permissible land use in the 7(f) zone. Council could not impose any form of title restriction such as a prohibitive covenant given that the 7(f) zone identifies dual occupancies as a permissible land use.

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 three submissions being received. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979.

A summary of the submissions is detailed in the table below.

Doc. No	Summary of Issues	Response
D01149868 D01153708 D01156493	<p>Inadequate drainage and waste facilities for the existing residences and sheds</p> <p>Inadequate common boundary fencing</p> <p>Concern over traffic safety issues in Berkeley Road</p>	<p>Irrespective of the outcome of the subdivision application both of these matters require further investigation to ensure that the current inadequate circumstances are corrected.</p> <p>This aspect is a private matter between both affected property owners and not an issue for this application to resolve.</p> <p>The proposal does not involve any change to the present access arrangements for the residences on the subject site to Berkeley Road.</p>

CONCLUSION

In the physical sense the proposed subdivision would have a negligible impact on the character of the local district. The immediate neighbouring precinct to the east is a residential zoning while in other directions the general conservation (or similar) zones are maintained.

It is not, however, the physical nature of the proposal that represents the major issue in question. This report concentrates the assessment on the intent and the practicalities of the zone.

It is considered that the proposal fails to satisfy a fair and accurate assessment under Section 79C on a number of issues including the 7(f) zone character and the use of SEPP 1. It is considered that the applicant has not proven that the development standards of Clause 14 are either unnecessary or unreasonable in the circumstances of the case to warrant Council varying the development standards of the LEP. It is also considered extremely unlikely that the DoP would give its concurrence to the subdivision should Council decide to support the application. Council has no ability to approve the development without Departmental concurrence.

ATTACHMENTS

1. Locality Plan
2. Applicant's Sepp 1 Objection
 - Proposed Lots
 - Aerial Photos of Subject Land
 - Zone Boundaries
 - Plan of Subdivision
3. Letter dated 15 December 2008 from Optima Developments Pty Ltd

4.1 Proposed Dedication of Council Land part Lot 10 DP 1128045 The Entrance Community Centre, 15 Battley Avenue, The Entrance for Public Road

TRIM REFERENCE: D01477558

SUMMARY

Authority is sought to dedicate as public road part of Lot 10 DP 1128045 at The Entrance Community Centre, 15 Battley Avenue, The Entrance.

RECOMMENDATION

- 1** *That Council, dedicate part of Lot 10 DP 1128045 Battley Avenue, The Entrance as public road.*
- 2** *That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Plan of Subdivision that will dedicate the required land as public road upon registration.*
- 3** *That Council authorise the Mayor and the General Manager to execute the plan of subdivision that will dedicate the required land as public road upon registration.*

BACKGROUND

Council owns Lot 10 DP 1128045 at 15 Battley Avenue, The Entrance which is the site of The Entrance Community Centre.

The redevelopment and refurbishment of the site formerly occupied by The Entrance Infants School is occurring to allow construction of The Entrance Community Centre. The Centre will provide areas for arts and culture, physical activities, adult education and the "Men's Shed" as well as the necessary services, carparking and landscaping.

Approval for the Development is covered by DA/1002/07. A condition of that consent requires dedication of the footpath along Battley Avenue and Norberta Street as Road Reserve before an Occupation Certificate can be issued to the Community Centre.

THE PROPOSAL

Lot 10 DP 1128045 is Council owned land and classified Operational Land. The land is currently under redevelopment for use as The Entrance Community Centre. The proposal is to create legal public footpath areas along Battley Avenue and Norberta Street and to dedicate the footpath areas as "Road Reserve".

The development involves the creation of angle parking which will take up the available road reserve. A new footpath is to be constructed on the Council owned land where the Centre will be located.

The new footpath will need to be legalised as public road to limit Council's liability for damages and harm to the public. As a public road Council's liabilities are considerably less than those of landowners under controlled terms of the Roads Act 1993.

The Community Centre site has an area of 7,544m² and the proposal requires the dedication of approximately 352.6m² for public road.

OPTIONS

- 1 Dedicate the land in accordance with Condition No 49 of DA/1002/07.

This option allows the creation of legal footpath areas along Battley Avenue and Norberta Street and enables Council to issue a construction certificate once the works have been completed.

This option will provide Council with appropriate protection from liability arising from misuse or accidents on the footpath area. Under the Roads Act, Council's civil liability is strictly controlled on unlike ownership of private land.

- 2 Should Council not approve dedication of the land the issue of a Construction Certificate could be held up upon completion of the works. If this issue were to delay occupation of the facility Council could face considerable public criticism from The Entrance community.

Financial Implications

Nil.

Principles of Sustainability

The principles of sustainability were considered by the Shire Planning Department during the assessment of the Development Application.

GOVERNANCE

Council has a duty to ensure its risk profile is minimised for this benefit of all ratepayers.

CONCLUSION

The recommendation supports the option to create legal footpath areas along Battley Avenue and Norberta Street The Entrance through a Plan of Subdivision and the dedication of 352.6m² of Lot 10 DP 1128045 Battley Avenue as public road.

ATTACHMENTS

1. Plan showing the location of the land to be dedicated as public road

4.2 Proposed Licence to Gwandalan Bowling Club Limited for Pipeline over Lot 2 DP 28962 Gamban Road Gwandalan

TRIM REFERENCE: D01488665

SUMMARY

Approval is sought to enter into a licence agreement with Gwandalan Bowling Club Limited for a pipeline over Lot 2 DP 28962 Gamban Road, Gwandalan.

RECOMMENDATION

- 1 That Council enter into a licence agreement with Gwandalan Bowling Club Limited for a pipeline over Lot 2 DP 28962 Gamban Road Gwandalan for a licence fee of \$1,000 per annum.**
- 2 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents relevant to the licence.**

BACKGROUND

A Development Application by Gwandalan Bowling Club Limited (the Club), for construction of three 35kl concrete water tanks and associated stormwater pipelines was approved on 15 August 2008. The tanks and pipelines will provide stormwater for harvesting by the Club in the course of its operations.

The Club presently leases Lot 1 DP 800051 (the Leased Land) from Council for playing bowls and a clubhouse. The lease expires on 22 June 2029. Rent is \$18,957.93 and is subject to annual Consumer Price Index (CPI) reviews. Market reviews are conducted every five years with the next market review due on 23 June 2009.

The Development Consent proposes installation of the stormwater pipelines within Council land adjacent to the Leased Land and requires the applicant (the Club) to secure tenure for the work prior to the issue of a construction certificate. These works comprise stormwater pipes 100mm and 50mm in diameter and are located on Lot 2 DP 28962.

Lot 2 DP 28962 (the Land) and the Leased Land are owned by Council and classified Community Land for a small park under Plan of Management No. 5 for Sportsgrounds, Parks and General Community Use. The Land has an area of 1.02ha and is zoned 6 (a) Open Space and Recreation. The Leased Land has an area of 5,606m² and is zoned 6 (a) Open Space and Recreation.

THE PROPOSAL

The Club has applied to Council for an extension of the area it currently occupies under lease to accommodate the proposed stormwater pipelines on the Land in accordance with the development consent.

The Club has agreed to enter into a licence agreement with Council with the amount of the licence fee to be commensurate with the amount that the Club currently pays per hectare for the Leased Land. Using this charging principle it is proposed that the licence fee be set at \$1,000.00 per annum excluding GST and subject to annual increases in line with the Consumer Price Index.

The Manager Development Assessment has no objection to a licence in respect to the works approved for the Land. The licence will satisfy the requirements of the Development Consent to enable issue of a Construction Certificate.

The Manager Customer and Community Services has no objection to the proposal.

OPTIONS

The grant of an easement by Council would involve payment by the Club of considerable costs including, survey, valuation and registration fees for the establishment of the easement as well as compensation to Council for the easement rights.

A less costly but effective alternative is to grant the Club a licence over part of the Land. The licence will provide for the Club to be responsible for all maintenance requirements for the stormwater pipes and indemnify Council from liability.

The grant of a licence to the Club instead of an easement for the use of the Land will provide appropriate security for Council and the Club and will operate in conjunction with the lease for the Leased Land.

STRATEGIC LINKS

Principles of Sustainability

The principles of sustainability were considered by the Manager Development Assessment during the assessment of the Development Application. No issues have arisen.

GOVERNANCE

Council has authority to grant leases or licences under the Local Government Act 1993.

Under the Plan of Management, any necessary infrastructure required to service the recreational use of the land may be constructed and leasing or licensing is permissible.

CONCLUSION

The licence option provides adequate security over the land for both Council and the Bowling Club at a reduced cost to the Bowling Club compared with the cost of creating an easement over the land. The licence will operate in conjunction with the existing lease and share the lease expiry date.

The recommendation supports the option that Council enter into a licence agreement with Gwandalan Bowling Club Limited for a pipeline over Lot 2 DP 28962 Gamban Road Gwandalan for a licence fee of \$1,000 per annum.

ATTACHMENTS

1. Location Plan

4.4 Proposed Easement for Electricity Purposes over Lot 1 DP 786567 and Lot 1 DP 874424 Fowler Road, Tuggerah

TRIM REFERENCE: D01540819

SUMMARY

Approval is sought to grant an easement to Energy Australia over Council land at Fowler Road for the installation of 11kV underground electricity supply cable from its Berkeley Vale Zone Substation to the end of Teamster Close, Tuggerah.

RECOMMENDATION

- 1 That Council grant an easement for electricity purposes 15.24 metres wide over Lot 1 DP 874424 and Lot 1 DP 786567 Fowler Road, Tuggerah to Energy Australia for an amount of compensation payable as assessed by a qualified valuer.**
- 2 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents.**
- 3 That Council authorise the Mayor and the General Manager to execute all documents.**

BACKGROUND

Energy Australia proposes to construct an 11kV underground electricity supply cable from its Zone Substation in Corella Close Berkeley Vale to the end of Teamster Close, Tuggerah, a 2km route.

Affected by the proposed underground cable route is Council owned land Lot 1 DP 874424 and Lot 1 DP 786567 Fowler Rd, Tuggerah.

Council's land is affected by an existing easement for an overhead electricity transmission line in favour of Energy Australia. Lot 1 DP 874424 and Lot 1 DP 786567 being adjoining parcels having a combined area of 102,423m² is zoned 6(b) Regional Open Space and is classified community land.

THE PROPOSAL

Energy Australia has requested that Council grant an easement for electricity supply to accommodate the new underground electricity supply. This new easement will be wholly contained within the area of the existing easement for overhead electricity transmission. Energy Australia has agreed in principal to the amount of compensation for the easement being determined on the assessed by an independent qualified valuer.

As the proposed easement falls entirely within an existing easement it has minimal additional impact on any future use of the land. Consultation has been undertaken with Council's Shire Services and Planning Departments and neither Department have any objection to the granting of this further easement.

OPTIONS

Council has the option to:

- 1 Approve the proposed easement, or
- 2 Refuse the proposed easement.

If Council approves this easement, the affect on the Council land is minor due to the whole area sought for this easement being contained within an existing easement for overhead electricity transmission.

Should the application be refused, Energy Australia is likely to locate the power supply within the existing overhead lines. This approach is inconsistent with Council's long term aim to have Energy Australia locate the majority of its power supplies underground.

GOVERNANCE

Council has authority to grant the easement under the Terms of:

- 1 The Local Government Act 1993.
- 2 The Roads Act 1993.

CONCLUSION

Given the proposed easement for the supply of underground electricity has minimal additional impact on the current and future use of the land as it falls wholly within an existing easement granted to Energy Australia for the supply of overhead electricity transmission lines, it is recommended that Council approve the granting of this new easement.

ATTACHMENTS

1. Location Plan showing proposed easement (shaded) over Lot 1 DP 874424 and Lot 1 DP 786567

5.1 Contract 2328 - Wyong Coastline Management Plan - Variation

TRIM REFERENCE: D01542421

SUMMARY

Report seeking approval for a variation for Contract 2328 – Wyong Coastline Hazard Study/Management Study/Management Plan.

RECOMMENDATION

That Council approve the contract variation in the amount of \$337,858 (excluding GST) to allow completion of the hazard study and preparation of the management study and management plan.

BACKGROUND

Brief History

The overall Coastline Management Planning process involves three distinct phases. The first phase, the Coastline Hazard Assessment is undertaken to assess the hazards for beach and dune erosion as well as slope failure along the bluffs, such as those at Cabbage Tree Harbour. The second phase, the Coastline Management Study will comprehensively assess the social, economic, aesthetic, recreational and ecological issues associated with land use along the coastline, in addition to coastline hazards, (eg implications of existing land tenure and planning controls for development, the preservation of areas of ecological significance and the protection or enhancement of recreational amenity). The final phase is the Plan which should develop and propose options for managing the various issues incorporating both management and/or constructed options.

The current contract for development of the overall project was awarded to Umwelt Pty Ltd in 2003 and their sub-consultants Shirley Consulting Engineers and SMEC. Umwelt's tender submission had an original cost of \$192,985 (ex GST) but before Umwelt was commissioned further negotiations took place for additional geotechnical and coastal processes investigations in Blue/Toowoyn Bays and Bateau Bay/Blue Lagoon at a cost of \$45,454.54 (ex GST) and an allowance of up to \$7,272.73 for consultation. The total budget currently stands at \$245,712.30 (ex GST) for the consultancy. Actual expenditure incurred to date is \$211,651.43 (ex GST).

The project is funded on a 50-50 basis by Council and the Department of Environment and Climate Change (DECC) through the Department's Coastal Management Program. In effect, Council is reimbursed 50% of all expenditure approved by DECC on a yearly basis. Staff from DECC's Coastal Unit are also involved in providing technical information to Council and assessing and accepting consultancy proposals. Council however is responsible for the engagement and management of appropriate consultants to undertake the work.

Work began on the current consultancy in 2004 with preparation of the hazard assessments for the beaches and bluffs. Maps were produced indicating the various hazard zones such as the Immediate High Hazard, the 50 year High Hazard and the 50 year Medium Hazards for the bluff areas. Similarly, the beach areas have Erosion Hazard Zones and zones that

consider wave run up and the impact on foundations. Development within these zones is either excluded or controlled by Development Control Plan (DCP) 2005 Chapter 77 Coastal Hazards.

Umwelt and Council began the community consultation process for the hazard Maps in 2004 with several public meetings. At this time DECC officers began to question the use of the Consultant's methodology to determine the extent of beach cut during severe storm events (even though they approved the consultant's proposal). This methodology was known as the S-Beach Model which was developed in America. DECC Officers indicated that the model was not valid in Australia as we do not have the underlying data to use the model appropriately. The current results were thought not to be accurate or appropriately conservative. The use of this Model in Australia was tested in Court by Shoalhaven Council and was found to be inappropriate. This however, took some two and a half years to eventuate, during which time Council was unable to proceed with the project as it would have jeopardised DECC's funding arrangements.

In addition, the bluff hazard lines for the 2004 Study were provided within a 14m band (ie +/- 7m). It was then decided that this needed to be refined to +/- 2m so that planning zones could be more accurately defined.

DECC provided its endorsement for the project to proceed in late 2007 and subsequently at that time Council commenced negotiations with Umwelt to re-initiate the project. In 2004, Umwelt had completed a number of aspects of the brief including the hazard study and the first round of community consultation. However, a significant portion of the work was now required to be redone to rework the beach modelling and refine the bluff hazard lines. Other aspects, such as the Coastline Study and Plan were yet to be undertaken.

Contract Negotiations

Early negotiations with Umwelt indicated significant change to the original contract was required due to the fact that several years had passed since the original contract was awarded and the Contractor's rates had increased. In addition, the issue of climate change had become paramount for consideration but was not included in the original consultancy at an appropriate level. Finally, several new tasks were identified that should be undertaken such as the review of DCP 2005 Chapter 77 Coastal Hazards. Consequently, a new scope of works was developed, costed and accepted by Umwelt and DECC Officers. The new scope of works is provided in Attachment 1.

The option to terminate the contract and call fresh tenders was considered. However, significant intellectual property and knowledge of the project requirements was already invested with the consultant and sub-consultants. If a new contract was let, Council would be at risk that significant additional reworking by other consultants would have eventuated resulting in increased costs and loss of value already invested in the project. Legal advice was obtained which confirmed Council's ability to vary the original contract as opposed to calling fresh tenders under the requirements of the Local Government Act (LGA).

As the original contract was set up some years ago, Council was also required to upgrade the terms of contract to meet its current standard conditions of contract. These are set out in AS4122-2000 Engagement of Consultants. This revision to AS4122-2000 as amended will replace all former terms and conditions of contract between Council, the principal consultant Umwelt Pty Ltd and all sub-consultants. This will also make the contract more manageable for Council staff.

Expenditure to date

The following table summarises both the expenditure and income (in terms of grants) to date.

	2004	2005	2006	2007	2008	2009
Grant Income	37,500.00	48,750.00				
Expenditure	162,835.20	14,016.73	21,288.38	9,061.10	4,450.00	Nil

Grant increase is based on 50% of the original consultancy fee of \$192,985.

Assessment of variation cost for Consultancy.

All tasks within the new scope of works are required to be undertaken to finalise the hazard assessment, coastline study and coastline plan. Attachment 1 indicates that many of the tasks associated with public consultation and communications will be undertaken by Council. Such activities will require Council staff input but will also reduce the cost of the consultancy.

Based on the negotiated scope of works, DECC through the Minister for Climate Change and the Environment and Minister for Commerce the Hon. Carmel Tebbutt MP have made an offer of additional grant funding up to \$160,000 under the Department's Coastal Management Program (DECC have already provided \$86,250 in grant funding for this project to date). The remainder of the budget has been incorporated within Council Management Plans for 2008-09 and 2009-10.

Conclusion

During the course of this contract, a number of significant changes to the original scope of works were required to address emerging issues at the time. The consultancy has had significant difficulties by being extended some four years past the original completion date due to issues outside of Council's control. The new scope of works is considered by Council staff and DECC Officers to be required to now complete the three phases of the coastline management planning process. The consultancy also has a change in the terms of contract and conditions which will assist with the management of the contract and avoid many of the problems that were set up under the previous terms and conditions.

Council has received an offer of grant funding from DECC to pay for half of the current variation.

It is recommended that Council approve that the work now be completed as a variation to the value of \$337,858.

ATTACHMENTS

1. Table 1 – Indicative Costing for Preparation of Wyong Coastline Hazard Study / Management Study / Management Plan
2. Previous Council Report dated 26 November 2003

5.3 Contract CPA 145088 - Hire of Plant and Machinery

TRIM REFERENCE: D01540659

SUMMARY

Report on tenders received for the Hire of Plant and Machinery to Council for the period 1 February 2009 to 31 January 2010 with two Principal actionable extensions of 12 months each.

RECOMMENDATION

- 1 That Council accept all conforming tenders received for Contract CPA 145088 Hire of Plant and Machinery for the period 1 February 2009 to 31 January 2010.**
- 2 That Council authorise the Director Shire Services to arrange engagement of Plant and Machinery as required from time to time in accordance with Contract CPA 145088 using the most economical and suitable supplier as each situation demands.**

BACKGROUND

Due to a combination of the fluctuating nature and diversity of its operations, Council frequently finds it necessary to externally hire plant and machinery. Items of equipment tendered under this contract include items supplied with operators eg backhoes, excavators, cranes, asphalt trucks, water carts, rollers, graders, concrete pumps etc. Their demand is a function of the composition of Council's works program at any given time. To ensure that these items are readily available at the most competitive rates, tenders are invited every two to three years. The current contract expired on 9 January 2009. An interim contract has been issued to all tenderers, concluding on 1 February 2009. This interim arrangement has been issued under staff delegations as the value for that period is less than \$150,000. It protects Councillor's interests as it is issued under the same terms and conditions as the recently expired contract. In future, tenders will be called earlier to ensure the contract is awarded prior to the expiry date of an existing tender.

When an item is required, it is provided from Council's own plant pool if owned and available. If not available, the Plant Pool Coordinators source the required plant and machinery from a list of contracted external providers compiled through a competitive tendering process. Offers of hire start with the contractor with the highest ranking for that item and if unavailable at the time required, offers proceed down the ranking list until the item is sourced.

This contract arrangement provides Council with very competitive rates under prequalified conditions of supply.

Tender Process

Tenders were invited by way of public invitation. Tenders were advertised in both local and metropolitan newspapers and closed at 2.00pm on 30 October 2008.

Tenderers were required to submit tendered rates for each item of plant in addition to any additional costs such as attachments and transportation to site. The tenderers were also

required to complete schedules detailing appropriate insurances, registration, licences, safety inspections and plant specifications.

One addendum was issued to prospective tenderers. This addendum was for the provision of the Occupational Health, Safety and Environment (OHSE) Management Plan (formerly known as the Subby Pack).

EVALUATION OF TENDERS

Tenders were evaluated by a panel of three staff members against the criteria of:

- Price, including transport and attachments.
- Plant condition, age and suitability
- Previous performance of contractor based on work for Council and/or referee checks

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

The evaluation was conducted according to the following process.

- 1 Assessment of receipt of tenders.
- 2 Assessment of conformance of tenders.
- 3 Inspections of plant (regularly hired construction items were inspected).
- 4 Evaluation of tenders.
- 5 Independent review of the tender selection process.

Assessment of Receipt

Tendered prices were received from 54 companies for individually tendered items for a large diversity of plant and machinery.

Tenderer	Examples of equipment offered
Acclaimed Excavations Pty Ltd	Bobcat, excavator
Activaz Pty Ltd	Excavator, Combinations
Active Hire Pty Ltd	Excavator, rollers, forklifts, truck and vehicles
Adam Lowe Earthmoving Pty Ltd	Excavators, rollers, loaders
Advanced Plant Hire Pty Ltd	Backhoe, bobcat, excavator
AJ & PJ Harris Pty Ltd	Backhoe
Amshae Excavations Pty Ltd	Backhoe
Aqua Assets Pty Ltd	Vacuum Trucks, CCTV
Aquarius Water Carters and Plant Hire Pty Ltd	Water carts
Barry Bros Specialised Services Pty Ltd	Vacuum trucks, CCTV
BJ Hunter Pty Ltd	Excavator
Bolte Civil Pty Ltd	Backhoe, excavators
Bowers Family Trust T/A Serious About Civil Pty Ltd	Excavators

Tenderer	Examples of equipment offered
Central Coast Slashing Pty Ltd	Excavator
Conplant Pty Ltd	Backhoe, excavator, rollers
Des Scheimer Bobcat Hire Pty Ltd	Excavator
Duncan Excavations Pty Ltd	Backhoe, excavator, watercart
Emery Excavations Pty Ltd	Excavator, bobcat, truck combination
Environmental Land Clearing Pty Ltd	Backhoes, excavators, loaders
FB Heavy Plant Vegetation Management and Consulting Pty Ltd	Excavator, prime mover, trailers, slope mowers
Fenech Group Pty Ltd	Jetvac, water blaster
Galtee Excavations Pty Ltd	Excavator
Goodworth Landscaping and Excavations Pty Ltd	Excavator
Greenland Transport Pty Ltd	Dozer, water carts
Gregory Excavations Pty Ltd	Excavator, truck combination
Huski Excavations Pty Ltd	Excavator, bobcat, truck combination
JMK Excavations Pty Ltd	Bobcat, excavator
John Beaumont Pty Ltd	Concrete pumps
John E Hogan Pty Ltd	Backhoe, excavator, water cart
Kinaston Industries Pty Ltd	Bobcat backhoe excavator rollers
Kuipers Pty Ltd	Excavators
McPhan Cranes and Transport Pty Ltd	Cranes, prime mover and trailer
Noraville Earthmovers Pty Ltd	Excavator, backhoe, water carts, tractor slasher
On Line Pipe and Cabling Locating Pty Ltd	Jet truck, CCTV
PM and GL Medcalf Pty Ltd	Backhoe
Posvelle Pty Ltd	Bobcat, excavator
Pryor Plant and Hire Pty Ltd	Excavator, dozer
R & D Parry Pty Ltd	Horizontal earth boring
Road and Rail Civil Pty Ltd	Bulldozer, excavator, dump trucks, grader
Robert Guy and Sons Pty Ltd	Concrete sawing and drilling
RW Leete Pty Ltd	Dozers
Scape Constructions Pty Ltd	Bobcat, excavator
Shane Whiteford Pty Ltd	Excavator, bobcat, truck combination
Sharpe Bros Pty Ltd	Bobcats
Stabilised Pavement of Australia Pty Ltd	Profilers
Sydney Pipecleaning Pty Ltd	Vac trucks, CCTV
Talbot Plant Hire	Backhoe
TCX Pty Ltd	Traxcavator, excavators, loaders
Teric Pty Ltd	Excavator, bobcat, truck combination

Tenderer	Examples of equipment offered
The Entrance Excavations Pty Ltd	Backhoe
Toveety Pty Ltd	Positrack, excavator
Tropic Asphalts Pty Ltd	Bobcat, excavator, loader
Veolia Environmental Services Pty Ltd	Vacuum loader
Wrights Excavations Pty Ltd	Excavator, bobcat, truck combination

All tenderers submitted tender documents by the closing date.

Assessment of Conformance

Tenders were assessed against:

- Compliance with specification
- Provision of all requested information (including copies of required insurances)
- Completion of all schedules.

Due to problems arising from the downloading of the addendum (OHSE Management Plan) during the tender period it was decided with consultation of the Plant Fleet Manager, System Coordinator Contracts, Contract Prequalification Administrator and the tender review panel to allow an extension of three weeks to fully supply the information required in the OHSE Management Plan, ending 30 November 2008.

Fourteen tenderers were offered the three week extension.

Of these, four tenderers, Boom Sherrin Pty Ltd, Ellis Profiling Pty Ltd, R Lindsay Holdings Pty Ltd and O'Brien Civil Pty Ltd failed to supply the required information by the due date and were deemed to be non conforming tenderers and did not proceed any further in the tendering process.

All other tenders were subsequently deemed conforming and progressed to the next stage of evaluation.

Weighted Evaluation

Tenders were evaluated against the three weighted evaluation criteria of performance, plant condition and price.

Full details for all categories of plant and machinery, including tendered rates, is available on the contract file. Rates have not been provided in this report because of the "commercial in confidence" nature of the information.

For backhoes, a summary of the priority ranking schedule is included in Table 1 below. For all other items of plant and machinery there are a number of pricing variables between tenderers with respect to minimum periods of hire, additional costs for attachments if required, and variable transport/setup costs. In these situations the most economical and suitable supplier will need to be determined as the situation demands. Given the varied nature of these other items of tendered equipment, it is not appropriate to provide a Priority Ranking Schedule for other than backhoes.

Table 1 Summary of Priority Ranking Schedule – Backhoe

RANK	COMPANY NAME	RANK	COMPANY NAME
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RANK	COMPANY NAME	RANK	COMPANY NAME
	Backhoe		Backhoe with Auger
1	Paul Medcalf	1	Alan Harris Pty Ltd
2	Amshae	2	Koppman B * 3 with auger
3	Alan Harris	3	Talbot Plant Hire
4	Hogan John E	4	Kingston Plant Hire * 5
5	The Entrance Excavations	5	Duncan B
6	Tropic Asphalt		
7	Talbot Plant Hire * 2 backhoes		Backhoe with Hammer
8	Koppman B * 3 backhoes	1	Duncan B
9	Environmental Landclearing	2	Kingston Plant Hire * 3
10	Kingston Plant Hire * 5 backhoes	3	Advanced Plant Hire
11	Duncan B	4	
12	Advanced Plant Hire	5	
13	Bolte Civil		Backhoe with Forks
14	Advanced Plant Hire * 4 backhoes	1	Kingston Plant Hire * 3

Note: Where companies tendered more than one item of plant they will potentially have more than one ranking, reflecting the ranking priority of those individual plant items.

Process Review

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

BUDGET

Procurement of plant and machinery will be centrally coordinated by Council's Plant and Fleet Unit and charged to the respective project or maintenance programs as transactions are processed, rather than from an allocation made to this contract itself. The estimated value of the arrangement is therefore not a budget figure, but rather it is simply an indication of the overall scope of the arrangement. Although the estimated value of the arrangement is \$1,300,000 per annum, the actual value will vary in response to the nature and timing of Council's maintenance and works programs.

TIME-FRAME

The tender is for a one year period with two Principal actionable extensions of 12 months each. A further report will be submitted to Council prior to the expiry of the 12 month period should the 12 month option be sought to be exercised.

CONCLUSION

All of the tenderers listed are deemed complying tenders that meet all the requirements of the tender documents.

It is recommended that Council accept all tenders received for Contract CPA 145088 for inclusion on a priority ranking list for the period 1 February 2009 to 31 January 2010 with two Principal actionable extensions of 12 months each and that the Director Shire Services be authorised to arrange engagement of plant and machinery as required from time to time in accordance with the priority ranking.

ATTACHMENTS

Nil.

5.4 Contract CPA 145089 - Hire of Tipping Trucks

TRIM REFERENCE: D01540444

SUMMARY

Report on tenders received for the Hire of Tipping Trucks to Council for the period 1 February 2009 to 31 January 2010 with two Principal actionable extensions of 12 months each.

RECOMMENDATION

- 1 That Council accept all conforming tenders received for Contract CPA/145089 – Hire of Tipping Trucks on a priority ranking list for the period 1 February 2009 to 31 January 2010.**
- 2 That Council authorise the Director Shire Services to arrange engagement of Tipping Trucks as required from time to time in accordance with the priority ranking list.**

BACKGROUND

Due to a combination of the fluctuating nature and diversity of its operations, Council frequently finds it necessary to externally hire tipping trucks with a driver. The demand for externally hired trucks is a function of the composition of the works program at any given time. To ensure that these items are readily available at the most competitive rates, tenders are invited every two to three years. The current tender expired on 9 January 2009. An interim contract has been issued to all tenderers, concluding on 1 February 2009. This interim arrangement has been issued under staff delegations as the value for that period is less than \$150,000. It protects Councillor's interests as it is issued under the same terms and conditions as the recently expired contract. In future, tenders will be called earlier to ensure the contract is awarded prior to the expiry date of an existing tender.

Initially, when an item is required, the item is provided from Council's own plant pool if available. When Council owned trucks are not available (due to previous allocations), the Plant Pool Coordinators source the required trucks from a ranked listing of contracted external providers compiled through a tender assessment process. Offers of hire start with the contractor with the highest ranking and if that contractor is not available at the time required, offers proceed down the ranking list until the required numbers of trucks are sourced.

This contract arrangement provides Council with very competitive rates under prequalified conditions of supply.

Tender Process

Tenders were invited by way of public invitation. Tenders were advertised in both local and metropolitan newspapers and closed at 2.00pm on 30 October 2008.

Tenderers were required to submit tender rates to indicate the hourly rate for the hire of tipping trucks. The tenderers were also required to complete schedules detailing appropriate insurances, registration, licences, safety inspections and truck specifications.

One addendum was issued to prospective tenderers. This addendum was for the provision of the Occupational Health, Safety and Environment (OHSE) Management Plan (formerly known as the Subby Pack).

EVALUATION OF TENDERS

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

- Price
- Truck condition, age and suitability
- Previous performance of contractor based on work for Council and/or referee checks

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

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and inspections of the trucks. The evaluation was conducted according to the following process.

- 1 Assessment of receipt of tenders.
- 2 Assessment of conformance of tenders.
- 3 Inspections of trucks
- 4 Weighted evaluation of tenders.
- 5 Independent review of the tender selection process.

Assessment of Receipt

Tenders were received from 21 companies for 103 individually tendered items (69 bogie trucks, 12 single axle tipping trucks and 22 truck and dog trailer combinations). Tenders were received from:

Activaz Pty Ltd	Bowers Family Trust T/A Serious About Civil
Casson Trucking and Earthmoving Pty Ltd	Emery Excavations Pty Ltd
Environmental Land Clearing Pty Ltd	FB Heavy Plant vegetation Management and Consulting Pty Ltd
Greenland Transport Pty Ltd	Gregory Excavations Pty Ltd
Jewell Holdings Pty Ltd	Kingston Industries Pty Ltd
Noraville Earthmovers Pty Ltd	P & C Harvey Haulage Pty Ltd
R K Talbot Enterprises Pty Ltd	Toveety Pty Ltd
Rods Haulage Pty Ltd	Underground Water Solutions Pty Ltd
Teric Pty Ltd	Road and Rail Civil Pty Ltd
Tropic Asphalts Pty Ltd	Pryor Plant Hire Pty Ltd
TCX Pty Ltd	Toveety Pty Ltd
	Underground Water Solutions Pty Ltd

Note: All tenderers submitted tender documents by the closing date.

Assessment of Conformance

Tenders were assessed against:

- Compliance with specification
- Provision of all requested information (including copies of required insurances)
- Completion of all schedules.

One truck tendered by Pryor Plant Hire, one truck tendered by Underground Water Solutions and one truck tendered by Road and Rail Civil were unavailable for a condition and safety inspection by Council technicians due to commitments outside of the regional area. The panel determined to accept these tenders subject to each truck condition being evaluated on the age of the truck tendered. Should any one of these trucks be called upon in the future, each will be required to be inspected prior to undertaking any work for Council to ensure compliance with condition and safety requirements.

Due to problems arising from the downloading of the addendum (OHSE Management Plan) during the tender period it was decided with consultation of the Plant Fleet Manager, System Co-ordinator Contracts, Contract Prequalification Administrator and the tender review panel to allow an extension of three weeks to fully supply the information required in the OHSE Management Plan, ending 30 November 2008.

Three tenderers were offered the three week extension.

Of these, one tenderer, R Lindsay Holdings Pty failed to supply the required information by the due date and was deemed to be a non conforming tenderer and did not proceed any further in the tendering process.

All other tenders were subsequently deemed conforming and progressed to the next stage of evaluation.

Weighted Evaluation

Tenders were evaluated against the three weighted evaluation criteria of performance, plant condition and price.

Full details for all categories of trucks tendered, including tendered rates, is available on the contract file. Rates have not been provided in this report because of the "commercial in confidence" nature of the information. A summary of the priority ranking schedule is included as Attachment 1 to this report.

Process Review

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

BUDGET

The procurement of tipping trucks will be centrally coordinated by Council's Plant and Fleet Unit and charged to the respective project or maintenance programs as transactions are processed, rather than from an allocation made to this contract itself. The estimated value of the arrangement is therefore not a budget figure, but rather it is simply an indication of the overall scope of the arrangement. Although the estimated value of the arrangement is

\$1,000,000 per annum, the actual value will vary in response to the nature and timing of Council's maintenance and works programs.

TIME-FRAME

The tender is for a one year period with two Principal actionable extensions of 12 months each. A further report will be submitted to Council prior to the expiry of the 12 month period should the 12 month option be sought to be exercised.

CONCLUSION

All of the tenderers listed in the schedules are deemed complying tenderers that meet all the requirements of the tender documents.

It is recommended that Council accept all tenders received for Contract CPA 145089 for inclusion on a priority ranking list for the period 1 February 2009 to 31 January 2010 with two Principal actionable extensions of 12 months each and that the Director Shire Services be authorised to arrange engagement of Tipping Trucks as required from time to time in accordance with the priority ranking list.

ATTACHMENTS

1. Summary of Priority Ranking Schedule

5.5 Contract CPA 145091 - Hire of Minor Plant and Equipment

TRIM REFERENCE: D01540677

SUMMARY

Report on tenders received for the Hire of Minor Plant and Equipment to Council for the period 1 February 2009 to 31 January 2010 with two Principal actionable extensions of 12 months each.

RECOMMENDATION

- 1** *That Council accept all conforming tenders received for Contract CPA 145091 Hire of Minor Plant and Machinery for the period 1 February 2009 to 31 January 2010.*

- 2** *That Council authorise the Director Shire Services to arrange engagement of Minor Plant and Equipment as required from time to time in accordance with Contract CPA 145091 using the most economical and suitable supplier as each situation demands.*

BACKGROUND

Due the nature and diversity of its operations, Council frequently finds it necessary to externally hire minor plant and equipment. Minor Plant and equipment includes that type normally available at a hire shop without an operator as well as temporary toilets, road barriers, fencing, lighting, and traffic lights etc. To ensure these items are readily available at the most competitive rates, tenders are invited every two to three years. The current tender expired on 9 January 2009. An interim contract has been issued to all tenderers, concluding on 1 February 2009. This interim arrangement has been issued under staff delegations as the value for that period is less than \$150,000. It protects Councillor's interests as it is issued under the same terms and conditions as the recently expired contract. In future, tenders will be called earlier to ensure the contract is awarded prior to the expiry date of an existing tender.

When an item is required, it is generally provided from Council's own small plant hire shop. If not available due to previous allocations or the item not in ownership of Council, the Plant Pool Coordinators source the required minor plant and equipment item from the list of suppliers using the most economical and suitable supplier as each situation demands. The item is then either organised directly by Council's plant pool or an order number provided for the relevant operator to pickup. This contract arrangement provides Council with very competitive rates under prequalified conditions of supply.

Tender Process

Tenders were invited by way of public invitation. Tenders were advertised in both local and metropolitan newspapers and closed at 2.00pm on 30 October 2008.

Tenderers were required to submit tendered rates for each item of plant offered in addition to any additional costs such as transportation to the site. The tenderers were also required to complete schedules detailing appropriate insurances, registration, licenses, safety inspections and plant specifications.

One addendum was issued to prospective tenderers. This addendum was for the provision of the Occupational Health, Safety and Environment (OHSE) Management Plan (formerly known as the Subby Pack).

EVALUATION OF TENDERS

Tenders were evaluated by a panel of three staff members against the criteria of:

- Price
- Plant condition, age and suitability
- Previous performance of contractor based on work for Council and/or referee checks.

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

The evaluation was conducted according to the following process.

- 1 Assessment of receipt of tenders.
- 2 Assessment of conformance of tenders.
- 3 Evaluation of tenders.
- 4 Independent review of the tender selection process.

Assessment of Receipt

Tenders were received from eight companies covering a diversity of equipment. Included were a number of specialist companies offering limited products through to those which provided detailed pricing schedules across all items in their inventory.

COMPANY	ITEMS SUPPLIED
A Class Hire Pty Ltd	Portable toilets, shipping containers
Active Hire Pty Ltd	Portable toilets, small plant hire shop items, shipping containers, safety barriers
Apec Pty Ltd	Bobcat, excavator (Dry Hire Only)
Coates Hire Operations Pty Ltd	Directional arrow boards, portable traffic lights, variable message boards, barriers
Gmon Pty Ltd	Concrete sawing and drilling
Kingston Industries Pty Ltd	Lighting towers, shipping container, small plant hire shop
Road Rail and Civil Pty Ltd	Portable traffic lights
Veolia Water Network Services Pty Ltd	Vacuum loader

All tenderers submitted tender documents by the closing date.

Assessment of Conformance

Tenders were assessed against:

- Compliance with specification
- Provision of all requested information (including copies of required insurances)
- Completion of all schedules.

All tenders were subsequently deemed conforming and progressed to the next stage of evaluation.

Evaluation

For many items of minor plant and equipment, there are pricing variables between tenderers with respect to minimum periods of hire, additional costs for attachments and transport/setup costs. In these situations the most economical and suitable supplier will need to be determined as the situation demands. Full details for all categories of minor plant and equipment, including tendered rates, is available on the contract file. Rates have not been provided in this report because of the “commercial in confidence” nature of the information.

Process Review

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

BUDGET

Procurement of minor plant and equipment will be coordinated by Council's Plant and Fleet Unit and charged to the respective project or maintenance programs as individual transactions are processed, rather than from an allocation made to this contract itself. The estimated value of the arrangement is therefore not a budget figure, but rather it is simply an indication of the overall scope of the arrangement. Although the estimated value of the arrangement is \$450,000 per annum, the actual value will vary in response to the nature and timing of Council's maintenance and works programs. Given the varied nature of all tendered equipment, it is not appropriate to provide a Priority Ranking Schedule.

TIME-FRAME

The tender is for a one year period with two Principal actionable extensions of 12 months each. A further report will be submitted to Council prior to the expiry of the 12 month period should the 12 month option be sought to be exercised.

CONCLUSION

All of the tenderers listed are deemed complying tenders which meet all the requirements of the tender documents.

It is recommended that Council accept all tenders received for Contract CPA 145091 for the period 1 February 2009 to 31 January 2010 and that the Director Shire Services be authorised to arrange engagement of minor plant and equipment as required from time to time using the most economical and suitable supplier as each situation demands in accordance with Contract CPA 145091.

ATTACHMENTS

Nil.

5.5 Contract CPA 149751 - Contract for Supply and Delivery of Tools, Fasteners and Hardware

TRIM REFERENCE: D01477591

SUMMARY

Evaluation and selection of tenders for Contract No CPA 149751 for supply and delivery of tools, fasteners and hardware.

RECOMMENDATION

That Council accept the tenders (Schedules of Rates) of Express Industrial Supplies Pty Ltd trading as Brisbane Water Industrial Products and J Blackwood and Son Limited for supply of tools, hardware and fasteners for a period three years.

BACKGROUND

Council utilises many different types of tools, hardware and fasteners products for maintenance, construction and workshop activities conducted in the main, by field based staff. In total Council acquires 584 different types of hardware related products on a recurring basis. These products are generally stocked and distributed from Council's stores operations at Charmhaven and Long Jetty.

The Contract offered is for a three year period and tenderers were asked to provide fixed rates on each of a total of 584 line items.

The Conditions of Tender set out Council's options to award the Contract to one or more tenderers and to obtain materials from one or more sources of supply. Additionally, tender conditions advised that Council may rank tenderers to suit Council's buying patterns and needs.

Suppliers, Express Industrial Supplies Pty Ltd trading as Brisbane Water Industrial Products and J Blackwood and Son Limited have successfully supplied Council's requirements over the last three years. The current contracts expires on 31 January 2009.

Tender Process

Tenders were invited by way of public invitation and closed at Council Chambers at 2.00 pm, on 6 November 2008.

Evaluation was made by an internal panel using threshold and weighted criteria:

- Compliance with Tender documents, including lodgement of tender by specified time, quality of products offered and completeness of price schedules
- Limitations imposed by the Tenderer in relation to minimum order quantities
- Previous experience with Council or other similar organisations
- Price and payment terms discounts offered
- Lead time of supplies
- Tenderer's Quality Control process including where applicable, accreditation to recognised Australian Standards
- Access to supply point and discount structure offered for non contracted line items bought via procurement cards

Evaluation of tenders was conducted according to the following process.

- 1 Assessment of receipt of tenders
- 2 Assessment of conformance of tenders – Threshold criteria
- 3 Detailed weighted evaluation of shortlisted tenders
- 4 Due diligence checks on preferred tenderers

The following tenders were received from:

No 1 J Blackwood and Son Limited
No 2 Express Industrial Supplies Pty Ltd trading as Express Industrial Supplies
No 3 EDL Fasteners Pty Ltd

Tender Conformance – Threshold Criteria

Tenderer No 1 from (J Blackwood and Son Limited) contained 16 departures from contract conditions. All departures were clarified to the satisfaction of the assessment team.

Both tenderer No 1 (from J Blackwood and Son Limited) and Tender No 2 (from Express Industrial Supplies Pty Ltd trading as Brisbane Water Industrial Products) conformed to all threshold criteria requirements.

Tender No 3 (from EDL Fasteners Pty Ltd) only tendered on 153 line items. Price analysis on these items has concluded they were cheapest on only 19 out of a possible 584 items. The assessment panel concluded the marginal net gain from accepting an offer on only 19 line items was outweighed by the additional administrative costs associated with managing an additional supplier ie indirect costs associated with managing additional deliveries, purchase order maintenance and invoice management costs. The tender from EDL Fasteners Pty Ltd failed to meet the threshold criteria of "completeness of price schedules" and was eliminated from further consideration.

Weighted Evaluation

Shortlisted tenders were scored against each of the weighted evaluation criteria (including price and non-price elements), and are listed below in descending order of weighted evaluation scores (99 and 95).

Tender	Tendered Lump Sum (excl GST). Aggregated price obtained by multiplying line item pricing by estimated usage
No 2 Express Industrial Supplies Pty Ltd trading as Brisbane Water Industrial Products	\$462,323
No 1 J Blackwood and Son Limited	\$458,274

Further price analysis across both suppliers has concluded that tenderer No 1 from J Blackwood and Son Limited is the cheapest supplier across 272 line items and tender No 2 from Express Industrial Supplies Pty Ltd trading as Brisbane Water Industrial Products is the cheapest supplier across 312 line items. Splitting the contract across both suppliers saves Council an estimated further \$43,000 per annum.

Due Diligence

Express Industrial Supplies Pty Ltd trading as Express Industrial Supplies and J Blackwoods and Son Limited are Council's incumbent contractors. Both have had a long standing history with Council having supplied Council's hardware needs over the last decade. Contact with key warehousing staff has indicated they are fully satisfied with the responsiveness and all round service provided by both suppliers.

Price analysis of the top 35 valued items indicates a 9.9% increase relative to previous contracted rates.

Process Review

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

BUDGET

The contracts will be offered as a fixed schedule of prices per item. Purchases will be funded from Council cost centres as transactions occur. The estimated value of the contract (based on previous years' usage) is \$1,247,316 over three years (\$415,772 pa excl GST). Actual value will depend on the quantities ordered as requirements arise over the life of the contract. The total amount may vary significantly from estimates.

TIME-FRAME

The contract commences 1 February 2009 and runs for a period of three years ending 30 January 2011.

LOCAL CONTENT

Both suppliers support local employment as they have warehousing distribution centres based on the Central Coast.

CONCLUSION

The two offers of interest to Council, are close in extrapolated value and ranking and both are capable of supplying Council's needs. The two prospective suppliers enable full coverage of Council's product requirements when both offers are considered together, whereas either on their own, do not cover the range. Pricing varies between the suppliers such that if

Council is able to use both companies, significant additional savings (10%) accrue. It is prudent to award two contracts.

ATTACHMENTS

Nil

5.6 Contract Variations - November and December 2008

TRIM REFERENCE: D01493055

SUMMARY

Reporting on variations made to contracts with a value greater than \$150,000 (ex GST) and, where necessary, approval is sought for additional contingency funding. The report covers approved variations for the period 1 November to 31 December 2008.

RECOMMENDATION

- 1** *That Council note the variations to contracts in the attached enclosure.*
- 2** *That Council approve additional contingency amounts for the following contracts to provide for further potential variations.*

<i>Contract Name</i>	<i>Contract No</i>	<i>Contingency (ex GST)</i>
<i>Concept Design and Detail Tender Documentation For Sewerage Trunk Mains Warnervale Town Centre</i>	<i>CPA 130590</i>	<i>\$100,000</i>
<i>Minnesota Road Intersection Upgrade</i>	<i>CPA 137955</i>	<i>\$5,000</i>

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 (ex GST) be publicly tendered and approved by Council resolution.

Contracts of an estimated value less than \$150,000 (ex 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 (including contingencies) and approved by Council or staff delegation, as the case may be.

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

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

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

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

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

THE PROPOSAL

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

Of the six contracts with variations reported on for the period, funds previously approved by Council are at this time considered sufficient to ensure completion for four of those contracts.

Two contracts require additional contingency funds to be approved by Council. The additional funds requested are necessary to cover actual or anticipated future variations to those contracts.

OPTIONS

Not applicable

Financial Implications

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

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

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

For those contracts where additional contingency is sought, the additional expenditure to be incurred under the contract will be met as follows:

CPA 130590 – Section 94 Contributions

CPA 137955 – Section 94 Contributions

Principles of Sustainability

Not applicable

CONSULTATION

Not applicable

GOVERNANCE

Not applicable.

CONCLUSION

To enable completion of the projects arising from the contracts reported, it is necessary for Council to provide additional funds for two (2) of those contracts.

ATTACHMENTS

1. Contract Variations for the period 1 November to 31 December 2008

6.1 Impacts of Potential Underground Coal Mining in the Wyong Local Government Area - Strategic Review

TRIM REFERENCE: D01540866

SUMMARY

The Wyong Coal Inquiry Report (the Chikarovski Report) was released on 17 December 2008. A brief review of the Report's findings are provided.

RECOMMENDATION

- 1** *That Council make a submission on the report from the Wyong Coal Inquiry (the Chikarovski Report).*
- 2** *That a copy of the submission be provided to all Councillors.*
- 3** *That Council request the Wyong Council Liaison Group to make a submission by 27 February 2009 to the Department of Planning in respect of the Chikarovski Report.*

BACKGROUND

On 5 February 2007, the former State Planning Minister appointed an independent panel to examine and report on:

- 1** *Whether coal mining under the catchment of the Mardi Dam would compromise, in any significant way, the water supply of the Central Coast;*
- 2** *Environmental impacts of any underground coal mining, with particular emphasis on:*
 - *Surface and groundwater resources, especially on drinking water supply and flooding;*
 - *Hazards and risks of subsidence impacts; and*
 - *The amenity of the community, including dust and noise impacts;*
- 3** *Social and economic significance of any underground coal mining to the local community, the region and State; and*
- 4** *Areas where mining should not be permitted, or if permitted the conditions under which it may proceed, having regard to the matters listed above and the NSW Government's strategic planning policies that apply to that area.*

The Panel was chaired by Ms Kerry Chikarovski. Other members of the panel were:

- Emeritus Professor Jim Calvin, a subsidence expert;
- Associate Professor Noel Merrick, a groundwater expert; and
- Brian Elton, a social impact expert.

The Panel held public meetings and inspections in Wyong Shire during July/August 2007. The findings from the Inquiry were subsequently released for public comment on 17

December 2008. Comments on the report will be accepted by the Department of Planning (DoP) up to 27 February 2009.

Findings from the Report are summarised in the following section.

KEY FINDINGS OF THE CHIKAROVSKI REPORT

Key findings of the Report as summarised and reported to the media by a Government press release are:

- * There are no significant reasons why coal mining should not be permitted in Wyong Local Government Area;
- * There is a valuable coal resource in the Wyong Local Government Area worth several billion dollars;
- * Mining this resource is unlikely to compromise in any significant way the water supply of the Central Coast; and
- * Any new mining proposals in the Wyong Local Government Area should be examined carefully on their individual merits, using independent technical experts to strengthen the rigour of the assessment.

The Chikarovski Report also makes recommendations regarding a proposal by Kores Australia Pty Ltd to develop the Wallarah No. 2 Coal Project in Wyong. Those recommendations are:

- * Consideration should be given to an independent review of the final Wallarah No. 2 Coal Project as part of the DoP's assessment process;
- * Noise and dust emissions from the proposed surface facilities should be minimised, given their proximity to residential areas; and
- * Kores should apply best practice community consultation, engagement and participation.

A copy of the Chikarovski Report is available on the internet at: www.planning.nsw.gov.au.

COMMENTS ON THE REPORT

The report for the State Government on future coal mining in Wyong Shire essentially says that mining proposals in the Wyong area can be examined on their merits. According to a Government press release: "The Chikarovski Report is not a blanket approval for potential mines on the Central Coast, it's just not a blanket refusal of them".

The press release states that because the report does not rule out mining around Wyong the Wallarah 2 proposal will now be subject to rigorous environmental assessment and public scrutiny. Community comments will be sought early in 2009.

A preliminary reading of the report's main recommendations immediately identifies a number of areas where the findings appear to be seriously inconsistent with the deficiencies identified in the report. There also appear to be a number of stated generalities that do not provide assurance on many of the issues already raised in Council's previous submissions to the DoP highlighting major concerns about the Wallarah 2 project.

In one example in relation to groundwater impacts the report states in part that: "There is a lack of information relating to groundwater in the Wyong LGA in general. Of particular concern are a lack of monitoring of aquifer status, lack of metering of groundwater use, the absence of groundwater sharing plans,....." The report then goes on to state: "However, based on available data.....any mining activity **would not significantly impact** on

the existing groundwater levels or groundwater availability". (Emphasis added to illustrate inconsistency in conclusion).

On the issue of the impact of mine subsidence on wetlands the report recommends that any new coal mining proposal "should provide appropriate offsets to meet the 'maintain or improve principle'. Such offsets could include the creation of new wetlands where impacts on natural wetlands are unavoidable or unforeseen." Creating wetlands to replace natural wetlands containing threatened and endangered species will be difficult to locate particularly in similar locations and the impact on species may still be irreversible.

In relation to dust the report only recommends that: "Any coal mine surface facility which is near residences should be required to comply with world's best practice in relation to coal stockpiling, storage and dust emissions". This in itself does not guarantee that coal dust will still not be an issue for nearby residents.

PROPOSED ACTION

Further detailed review of the Report will be undertaken by staff to identify other areas of inconsistency.

A meeting is also being arranged between the Wyong Council Liaison Group (comprising Valley representatives, staff and two Councillors) to discuss the report with a view to preparing an appropriate submission to the DoP by Council.

ATTACHMENTS

Nil.

6.2 Nomination of Delegate to the Mannering Colliery Community Consultative Committee

TRIM REFERENCE: D01477680

SUMMARY

Request for a delegate to represent Council on the Mannering Colliery Community Consultative Committee (MCCCC).

RECOMMENDATION

- 1 *That Council nominate a delegate to represent Wyong Shire Council on the Mannering Colliery Community Consultative Committee.***
- 2 *That Council advise the Mannering Colliery Community Consultative Committee of the nominee.***

BACKGROUND

A condition of the Mannering Colliery's Continuation of Mining Projects consent (schedule 5 condition 8) approved 12 March 2008 by the Minister for Planning is the establishment of a Community Consultative Committee. The Committee is to be established in accordance with *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects (Department of Planning 2007)*. The guidelines require a Local Council representative. In the case of MCCCC, this will be a representative from both Lake Macquarie City Council and Wyong Shire Council. Any appointment is subject to the approval of the Department of Planning.

THE PROPOSAL

A request has been received from the Independent Chairperson of the Mannering Colliery Community Consultative Committee to nominate a Councillor or Council Officer as a member of the MCCCC.

OPTIONS

Council may nominate either a Councillor or Council Officer for representation.

CONSULTATION

No public consultation has been undertaken. Council's decision will be subject to the approval of the Department of Planning.

GOVERNANCE

Appointment of a delegate is in accordance with the *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects (Department of Planning 2007)*.

CONCLUSION

To ensure appropriate representation, a delegate should be nominated.

ATTACHMENTS

Nil

6.3 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: D01466876

SUMMARY

Councillors propose the following allocation of funds for expenditure from Councillors' Community Improvement Grants (CCIG).

RECOMMENDATION

That Council allocate an amount of \$4,625 from the 2008-09 Councillors' Community Improvement Grants as outlined in Attachment 1.

BACKGROUND

Provision has been made in Council's Management Plan for each Councillor to recommend to Council the donation of funds to individuals, local service, charitable or community organisations who operate in the Shire or provide a benefit specifically to the residents of the Shire.

Donations may also be made to individuals or groups in pursuit of excellence, including sporting and cultural excellence, subject to CCIG Policy. Funds may also be allocated for emergency assistance in the event of natural disasters such as bushfires, flood or drought anywhere in Australia, subject to CCIG Policy. The funds are granted subject to approval of the Council as a whole.

THE PROPOSAL

To allocate funding to community groups or individuals in accordance with the CCIG Policy.

OPTIONS

Under the Policy all proposed allocations are subject to the approval of the Council as a whole.

STRATEGIC LINKS**Management Plan**

<i>Principal Activity</i>	<i>Key Issue(s) and Objective (s)</i>	<i>Financial Line Item No and Description</i>
A better community	Enhance the quality of life of the Shire's residents	1.1.11 – Community Financial Support

Contribution of Proposal to the Principal Activity

The Councillors' Community Improvement Grants were developed to help charitable community groups and in doing so helping the broader community.

Link to Key Focus Areas

Nil.

Financial Implications

Expenditure is approved until the end of the current financial year. Unspent approvals lapse 30 June 2009.

Principles of Sustainability

Nil.

CONSULTATION

Applications that met the criteria were distributed to Councillors for their consideration. Applications received directly from Councillors were not distributed to other Councillors.

GOVERNANCE

All expenditure recommended is permissible under Section 24 and 356(1) of the Local Government Act 1993.

CONCLUSION

The proposed allocations contained in this report are permissible under the Council's policy on Councillors' Community Improvement Grants . The process has been correct and Council may confirm the grants at its option.

ATTACHMENTS

1. Proposed Councillors' Community Improvement Grants Allocations 2008-09

28 January 2009

Board/Committee/Panel Meeting
Report

To the Ordinary Meeting

Corporate Services Department

7.1 Minutes of the Wyong Shire Grants Committee Meeting - 21 January 2009

TRIM REFERENCE: D01507058

SUMMARY

A meeting of the Wyong Shire Grants Committee was held on 21 January 2009.

RECOMMENDATION

That Council receive the minutes of the Wyong Shire Grants Committee meeting held on 21 January 2009 and the recommendations contained therein be adopted.

A meeting of the Wyong Shire Grants Committee was held on 21 January 2009 to distribute funds under the Community Benefit grant program and the Sports Equipment and Recreation Grant program. All expenditure recommended is permissible under Sections 24 and 356(1) of the Local Government Act 1993.

ATTACHMENTS

1 Minutes of the Wyong Shire Grants Committee Meeting held on 21 January 2008

8.15 Information Reports

TRIM REFERENCE: D01590538

SUMMARY

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

RECOMMENDATION

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

ATTACHMENTS

Nil.

8.2 Continuing Erosion of Cabbage Tree Bay

TRIM REFERENCE: D01541311

SUMMARY

Report on progress to date regarding current initiatives to combat erosion at Cabbage Tree Bay.

RECOMMENDATION

That Council receive the report on Continuing Erosion of Cabbage Tree Bay.

BACKGROUND

At its meeting held on the 26 November 2008, Council resolved as follows:

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

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.”

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

AGAINST: NIL.

Orders process

At the top of the slope, Council has been liaising for some time with the five landholders who were issued Orders under the Local Government Act and the EP&A Act. The first Order covered the removal of a number of backyard structures, including retaining walls, fill material and paving, while the other Orders covered regrading of the top of the slope and erection of a safety fence.

An audit was carried out of the five properties in early December 2008 with the result that work had been clearly undertaken by some of the residents trying to comply with the Orders. Council is now proceeding to expedite compliance with the Orders and remove the safety risk prior to commencement of construction of the toe-drainage structure at the bottom of the slope. An update in respect of the compliance process has been forwarded to Councillors under separate cover due to its confidential nature.

Toe-drainage structure

Staff are currently resolving a number of engineering specification and approval issues prior to proceeding to public consultation and finalising the necessary approvals. Due to the fact

that the structure is to be constructed at the back of the beach within the wash zone during high tides, flexible working arrangements need to be accommodated within the specifications. These working arrangements need to be part of the information provided to the public during the consultation period.

It is expected that all necessary approvals will be obtained by late February, and with the tendering and Council approval process taking three months, work on the toe-drainage structure should commence in May 2009.

Offshore sand mining and beach nourishment

The issue of offshore sand mining and beach nourishment is one of controversy. Presently, the State Government's position is that offshore sand mining is not permitted. This form of mining would be outside of the Wyong local government area and as such would probably be a Part 3A major development requiring State Government approval. It would also need Department of Agriculture (Fisheries) and the Department of Environment and Climate Change (DECC) approval as well as permits from the Department of Lands (as it owns the land or beach on which the sand would be placed).

There are no precedents for such mining in New South Wales, although Queensland has some major beach renourishment projects. Byron Council considered beach renourishment as part of its integrated coastal management strategy but it proved too costly. Due to the current State Government policy, the time frame for consideration of any application would be extensive and likely to be measured in years rather than months.

However, there has been an indication within State Government that extraction of sand from offshore **may** be considered for "environmental reasons" - although this has not really been tested as yet. This would include the use of offshore sand for the replenishment of beaches. There is a groundswell of support for the use of this sand for beach nourishment from the Coastal Engineering fraternity within DECC and some coastal councils.

For example, the Sydney Coastal Councils Group (SCCG) has been successful in securing funding under the Natural Disasters Mitigation Program (NDMP) to undertake a project to detail available offshore sand resources for beach nourishment for the Sydney Metropolitan Area (SMA). Vast sand reserves are required to replenish the beaches in this area due to the greenhouse induced sea level rise scenario and the resulting beach recession. The project will also detail the approvals process for the dredging of sand from offshore and for its transport and placement on the beaches of the SMA. No such study has been undertaken on the Central Coast with the exception of Wamberal. Such resource assessment studies would be required for Cabbage Tree Harbour or any other Wyong Beaches prior to any application being made to the State Government for consideration.

The concept is feasible for Cabbage Tree Harbour where sand could be dredged outside the near shore zone (deeper than the zone of influence from wave action) and this would be roughly at 20-25m depth. Sand placed on the beach would effectively provide a better buffer against erosion of the toe of the slope than the current beach and would provide an increased amenity (greater area of beach). The current beach comes and goes with calm and storm conditions and as such provides a reasonable buffer and beach amenity at times. However, Cabbage Tree Harbour is part of a receding coastline (estimated at around 1m for every 10 years at present) with the main erosion process being the "surficial" slumping of the slope and erosion at the back of the beach. Beach nourishment could address erosion at the toe of the slope under a climate change scenario to some extent but would not address the surficial slumping process.

Dredging costs would currently be estimated at about \$20 to \$25 per tonne. This could equate to approximately \$250,000 to \$300,000 to put 1m of sand over Cabbage Tree Bay should the approvals be obtained. Depending on littoral drift and wave action, this sand

would need to be replaced regularly so the maintenance cost could be far greater than the up front capital cost of placing the sand on the beach.

There are a number of scenarios facing the beaches of the Wyong Shire. Existing development along the coastline will be exposed to increasing risk as Climate Change, Sea Level Rise and the resulting increased erosion/recession are played out over time. The community and Council will decide, through the Coastline Management Process, whether to protect or remove existing development that is under threat from coastal processes. Should the protect option be chosen, structural and/or amenity issues will require the artificial placement of sand on the beaches. Studies undertaken at Wamberal have indicated that offshore mining may be the most environmentally, economically and socially feasible method and beyond the near shore zone, being the only feasible location to deliver the vast sand quantities required to replenish the beaches in the face of rising sea levels and increased storminess.

Should Council be of a mind to investigate this issue further, it should most appropriately be considered as part of the Coastline Management Plan. The detailed investigation required would necessitate engaging external expertise at a cost in the order of \$50,000 to \$100,000. Council's Natural Resources Unit has neither the resource, expertise or budget to undertake such a study in-house. DECC has also advised that before proceeding with any detailed investigation, Council should ascertain from Senior DECC personnel as to whether such a proposal is likely to be given favourable consideration, taking into account current government policy.

ATTACHMENTS

Nil.

8.3 The Entrance Beach Renourishment

TRIM REFERENCE: D01540428

SUMMARY

Report on renourishment of sand at The Entrance Beach.

RECOMMENDATION

- 1** *That the report be received and information noted.*

BACKGROUND

At its meeting of the 12 November, 2008 Council:

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

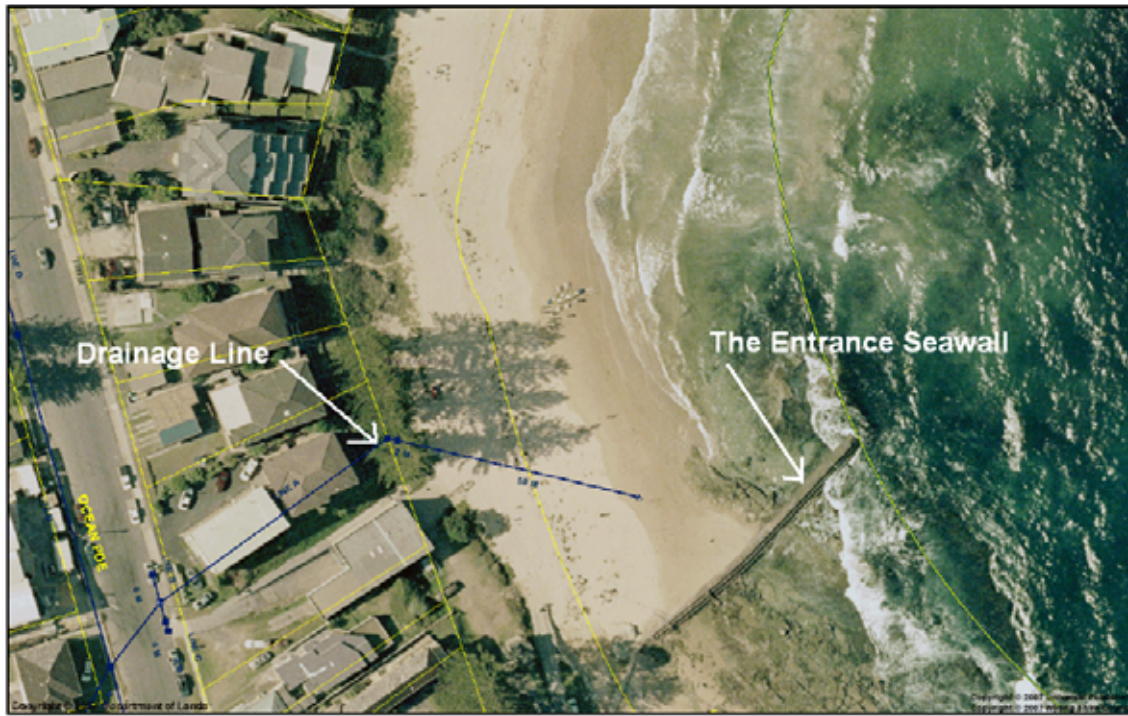
That staff investigate and report on a geotextile bag type training wall generally along the existing stormwater line to renourish the sand on The Entrance beach.”

The Entrance Beach Seawall

The Entrance Beach currently has a seawall located at the edge of the rock platform adjacent to the baths (see Photo 1). The seawall was built in 1967 and runs in a north-easterly direction from the back of the beach for approximately 64m. The concrete wall is 3.7m wide with an average depth of 1.98m. The wall was constructed with an approximate slope of 85° to the foreshore with the intention that waves will still flow over the wall at high tides but it would dissipate the force of the waves that scoured the beach.

At the time of the design of the wall in the mid sixties, the design engineer from the Department of Public Works Mr Floyd, commented that the wall would be 80-90% efficient. He also stated that the wall would not assist in accumulating sand (ie beach nourishment) but would slow the scouring process. In effect this is most likely what has happened, as the beach has been relatively stable over the last 40 years as indicated by local residents. It must be remembered that the beach will scour at times, especially during strong swell conditions from the south east, and conversely, will rebuild during calmer periods. This is the natural process of all beaches.

Photo 1: The Entrance Seawall



The Entrance Seawall Scale 1:843



Function of a Seawall

The intended function of a seawall is to trap sand moving generally in a northerly drift along the coastline. The predominantly south easterly swells move the sand in a net movement to the north so that the sand will accumulate on the southern side of a seawall, and this is generally the case. However, around the entrance to Tuggerah Lakes there is an eddy current that results in a southern movement of sand. The process followed during Council's dredging of the channel is to place the dredged sand along the North Entrance Beach within the area of southern sand movement. The sand then moves south eventually re-entering the entrance channel and is not lost to the system. The open entrance channel reduces the amount of sand that could potentially move south to The Entrance beach and accumulate on the northern side of the Entrance seawall. Allowing the entrance channel to close naturally could ideally provide more sand to nourish the Entrance Beach.

Feasibility of a Geotextile Bag Seawall

The feasibility of any seawall or groyne is determined by its ability to trap sand and to nourish the beach. The material from which it is constructed is a secondary consideration and depends on the level of risk associated with damage to the seawall from waves.

A seawall as referred to in Council's resolution is proposed to run generally along the existing stormwater line although the reason for this is unclear. The existing stormwater line is shown in Photo 1 (as the blue line). This runs in an east south-east direction and a seawall in this location would be limited in trapping sand moving in a southerly drift due to its inclination. It may result in sand being eroded between the seawalls resulting in a loss of beach. In addition, if the existing seawall is not trapping sand but helps prevent scour, then any additional seawall in the same area will not necessarily trap sand. In effect, even if the proposed seawall was re-oriented and even extended it would not necessarily trap significant amounts of sand to nourish the beach due to the available sand being trapped within the Entrance channel.

Approvals for a seawall will be required from the Department of Environment and Climate Change (DECC) and the Department of Lands. Such approvals would be based on the need for the seawall and its estimated performance and given the above may be hard to justify.

DECC would also need to be satisfied that any proposal would be derived from an appropriate strategic planning process, such as the Coastline Management Plan.

The material used to construct a seawall is a secondary consideration to its purpose and location. The existing concrete seawall has withstood wave attack for over 40 years with minimal maintenance. Current technical specifications indicate that groynes made from geotextile bags can only withstand waves of up to 1.5m. This tends to limit their application to protected areas of beaches or estuaries and not into surf zones exposed to significant swells. Larger bags can be used but costs increase and visual amenity is reduced. If another seawall was to be built, it should be constructed from rocks where current design criteria are well known and the chance of surviving severe storms would be far greater. There are also no current design criteria for geotextile bags that provide the same certifiable level of protection, so that whilst the initial cost of construction may be less the cost of maintenance could be far greater.

There are a number of scenarios facing the beaches of the Wyong Shire. Existing development and beach amenity will be exposed to an increasing risk as climate change, sea level rise and the resulting increased erosion and recession are played out over time. The community and Council will decide, through the Coastline Management Process, whether to protect or remove existing development and beach amenity that is under threat from coastal processes. Should the protect option be chosen, structural and/or amenity issues could require the artificial placement of sand on the beaches through seawalls or even beach nourishment from offshore sand mining. (See Item NOM Continuing Erosion at CTB on this Business Paper).

Council is currently developing its new Coastline Management Plan under the State Government's Coastal Zone Management Process with the project recommencing in February 2009 subject to Council approval (See Variation Report – Coastline Management Plan on this Business Paper). This is the appropriate forum to consider constructed options such as additional seawalls or groynes and weigh them against other management options. Any such proposal within the Coastline Management Plan would have far greater chance of gaining the required approvals from Government Departments as well as potential contributions to its funding when compared to options raised independently.

ATTACHMENTS

Nil.

8.4 Results of Water Quality Testing for Bathing Beaches

TRIM REFERENCE: D01539358

SUMMARY

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

RECOMMENDATION

That Council receive the report on Results of Water Quality Testing for Bathing Beaches.

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, five 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 five 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 Licenses".

Summary of Results for November through December 2008

Through out the November and December period, all the Ocean and Lakes beaches received a star rating that was safe for swimming in accordance with the NHMRC Guidelines for Recreational Water Use.

Tumbi, Ourimbah and Wyong Creek were the only sites to receive a star rating that was unsafe for swimming. Council is continuing to investigate the water quality of these systems in accordance with s.5.2.2 of the Estuary Management Plan, where it is anticipated to have a resolution of these findings by the end of January 2009.

Table 2: OCEAN BEACHES – 2008

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

Table 3: RIVER AND LAKE BEACHES –2008

LOCATION	STAR RATING	RECOMMENDATIONS
San Remo	****	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
Gwandalan	***	Site is safe for swimming
Ourimbah Creek Chittaway Point	**	Site is unsafe for swimming
Wyong River at Wyong	**	Site is unsafe for swimming
Tumbi Creek Tumbi Umbi	*	Site is unsafe for swimming

ATTACHMENTS

1. Summer Water Sampling Locations
2. Table 1 NHMRC Star Rating Interpretation

8.5 Activities of the Development Assessment Unit

TRIM REFERENCE: D01539589

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 November and December 2008.

RECOMMENDATION

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

Development Applications Received and Determined – November 2008

Type:	Number Received:	Estimated Value \$:	Number Determined:	Estimated Value \$:
Commercial	22	8,752,972	19	4,128,635
Industrial	2	701,000	2	-
Residential	93	5,962,567	63	5,476,758
Other	12	30,000	17	930,765
Total	129	15,446,539	101	10,536,158

Subdivision Applications Received and Determined – November 2008

Type:	Number Received:	Number of Lots:	Number Determined:	Number of Additional Lots:
Commercial	1	-	-	-
Industrial	-	-	-	-
Residential	-	-	1	1
Rural	-	-	-	-
Total	1	-	1	1

Development Applications Received and Determined – December 2008

Type:	Number Received:	Estimated Value \$:	Number Determined:	Estimated Value \$:
Commercial	18	16,422,245	13	2,839,272
Industrial	3	738,500	3	2,100,000
Residential	65	6,246,715	103	6,655,023
Other	17	-	7	30,000
Total	103	23,407,460	126	11,624,295

Subdivision Applications Received and Determined – December 2008

Type:	Number Received:	Number of Lots:	Number Determined:	Number of Additional Lots:
Commercial	-	-	1	43
Industrial	1	3	-	-
Residential	9	19	1	-
Rural	-	-	-	-
Total	10	22	2	43

Net Median Turn-around Time

The net median turn-around time in working days for priority applications determined during the month of November was 18 days. During this month, there were two priority applications which included two fit outs for commercial premises at The Entrance. The net median turn-around time in working days for priority applications for December was 19 days. There were three priority applications which included a medical centre at Tuggerah, industrial warehouse and office at Berkeley Vale and a warehouse addition at Tuggerah.

The net median turn-around time in working days for development applications determined during November was 17.5 days and 17 days for December.

Other Approvals and Certificates

Type:	Number Determined November 2008	Number Determined December 2008
Trees	53	38
Section 149 D Certificates	30	21
Construction Certificates	66	78
Complying Development Certificates	18	12

In November 2008 the Department of Planning (DoP) issued a Circular to Councils detailing additional requirements for the use of the Director General's assumed concurrence under State Environmental Planning Policy No 1 (SEPP 1). Specifically the circular now requires Council to adopt the following measures:

- 1 Establish a register of development applications determined with variations in standards under SEPP 1;

- 2 Require all development applications where there has been a variation greater than 10% in standards under SEPP 1 to be determined by full Council (rather than General Manager or nominated staff member);
- 3 Provide a report to each Council meeting on the development applications determined where there had been a variation in standards under SEPP 1;
- 4 Make the register of development applications determined with variations in standards under SEPP 1 available to the public on Council's Website.

Council has implemented these requirements and will report determinations, as detailed in 3 above as an additional item in this standard monthly report to Council. Councillors may also notice more applications being reported to Council for determination as a result of the direction from the Department in 1 above.

There were no applications that relied on SEPP 1 variations for the months of November and December 2008.

ATTACHMENTS

1. Graphs - Development Applications Lodged and Development Applications Determined

8.6 Update on the Woolworths Lake Munmorah Rezoning Request

TRIM REFERENCE: D01540146

SUMMARY

This report provides an update on the progress and anticipated timing for the assessment of the rezoning request for the proposed Woolworths Shopping Centre on the corner of the Pacific Highway and Tall Timbers Road, Lake Munmorah.

RECOMMENDATION

That Council receive and note the report on the progress of the Woolworths Rezoning request at Lake Munmorah.

BACKGROUND

At its meeting on 10 December 2008 Council resolved:

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

- 1 That Council recognise that this proposal is economically and socially vital infrastructure and as a consequence identify this application as a priority matter.*
- 2 That Council request staff to provide an update to Council's January 2009 meeting detailing progress and timing of the processing of this proposal.*

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

AGAINST: NIL.”

In July 2004, a rezoning request was submitted to Council to amend the Wyong Local Environmental Plan (LEP) 1991 to rezone Lot 2 DP520220 Pacific Highway, Lake Munmorah to facilitate the development of a shopping centre on the site.

The subject site has an area of approximately 8 hectares and is located on the corner of the Pacific Highway and Tall Timbers Road, Lake Munmorah (refer to Photos 1 and 2). The site was previously used for industrial purposes (Mitchells Concrete Products) and is bordered by residential development along the northern property boundary, and remnant bushland adjoining the eastern boundary.

Photo 1: Contextual Overview – Travel Distances



Photo 2: Subject Site



The proposal is for a Shopping Centre with a gross floor area of up to 10,000m² with 5,000m² in Stage 1 and 5,000m² in Stage 2. The timing of Stage 2 is subject to an Economic Impact Assessment demonstrating demand for the additional retail floor space. The Centre is proposed to have a mix of uses including a supermarket, service station, specialty shops, homemaker/lifestyle uses and health/medical centre.

Plan 1: Concept Plan



Steps taken in progressing the rezoning request are outlined in Table 1.

Table 1: History

Date	Action
July 2004	Rezoning request received by Council
September 2004	Applicant advised that staff are fully allocated for the 2004/2005 work

	programme.
March 2005	Applicant notified that in accordance with the strategic planning work programme, Council staff resources were being focussed on other major projects.
August 2006	In accordance with the work programme, a review of Council's Retail Centres Strategy had commenced and the applicant was advised that the proposal would be considered following finalisation of the Retail Centres Strategy Review (RCSR).
December 2007	RCSR was adopted.
January 2008	RCSR came into effect.
February 2008	Preliminary assessment of the rezoning request commenced.
April 2008	Meeting between Council staff and the applicant. The applicant is requested to provide strategic justification as to the suitability of the subject site.
June 2008	The applicant submits a strategic context report to Council.
July 2008	Meeting between applicant and Council's Transport Engineers. Concept plans for the site are changed. As a result of this, further information is requested from the applicant.
August 2008	Meeting between the applicant, Council staff and the Roads and Traffic Authority (RTA).
October 2008	Additional information submitted to Council by the applicant.

Preliminary assessment of the proposal commenced in February 2008, and in April 2008 Council staff requested additional information to enable a comprehensive desktop review of the proposal. The additional studies and investigations were submitted to Council on 31 October 2008. Council staff are currently reviewing the information and obtaining expert analysis of the Economic Impact Assessment and Threatened Species Report submitted for the site.

It should be noted, at the time of preparing this report, staff are still awaiting the proponent to address traffic concerns raised by Council's Transportation Engineers which was discussed at a subsequent meeting between the proponent, Council staff and the RTA on 5 August 2008.

CONCLUSION

A recommendation regarding preparation of a draft Local Environmental Plan (LEP) to progress the rezoning will be reported to Council in early 2009. To enable Councillors to consider this proposal in the context of the RCSR, the report will follow a briefing of the Councillors on the RCSR by Retail Consultant, Peter Leyshon, in March 2009.

ATTACHMENTS

Nil.

8.7 Finalisation of Contracts

TRIM REFERENCE: D01488135

SUMMARY

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

RECOMMENDATION

That Council receive the report on Finalisation of Contracts.

BACKGROUND

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

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

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

Note that a contingency allowance to cover potential variations to the contract is usually included in the recommendations made to Council for the award of Construction and major Consultancy contracts. The contingency value is included in the approved budget figures detailed in the attachment to this report.

Attached are details of all contracts determined by Council for acceptance that have been finalised in the period October 2008 to December 2008. The report does not include employment based contracts.

Contract Types

- * "Construction Contracts" - those contracts usually associated with the construction of new or replacement civil or community infrastructure.
- * "Consultancy Contracts" – contracts employing the services of professional experts to complement Council's resources usually involving the investigation or design of new or replacement civil or community infrastructure.

- * “Service Contracts” – those contracts usually involving the provision of a community service over an extended time period.
- * “Supply Contracts” – those contracts relating to the supply of an asset such as an item of plant, a consumable such as goods and materials, or a combination of the two such as the supply and laying of turf.

Pricing

Contracts are priced using a Schedule of Rates, a Lump Sum or a combination of both. Pricing reflects the nature of risk being managed.

Scheduled Rates

A Schedule of Rates Contract is where a contractor agrees a set of values per item requested and based on an estimate of Council’s purchase levels.

To determine the value of a contract under a Schedule of Rates arrangement, it is necessary to extrapolate the estimated quantity of work performed for each item of work by the tendered rate for that item.

Typically, Service and Supply contracts are solely based on Schedule of Rates arrangements. It is also common for Construction contracts to use a Schedule of Rates method, either in entirety or in combination with a Lump Sum where portions of the work dictate this approach.

Lump Sum

Lump Sum contracts are priced on a single total tendered amount to carry out the work under the contract or, in the case of Construction contracts, those parts of the contract which may have tendered under a Lump Sum arrangement.

Consultancy contracts are commonly Lump Sum based requiring a specific set of outputs.

Of the three reported contracts for the period, all were of a Service nature. There were no Construction, Consultancy or Supply Contracts finalised in the reporting period.

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

Performance

Performance Contracts – this type of contract is typically a maintenance service contract. It is a lump sum contract where the contractor guarantees to ensure that Council’s asset is kept at a given standard as opposed to performing prescribed work. Inherently slightly more expensive, it does however significantly lower Council’s risk and is more economical over time.

ATTACHMENTS

1. Significant Contracts Finalised in the Period October to December 2008 Enclosure

8.8 Attendance at Department of Local Government Councillor Information Seminar

TRIM REFERENCE: D01395831

SUMMARY

Report on attendance by Councillors at the Department of Local Government Councillor Information Seminar held in Wyong on Monday 13 October 2008.

RECOMMENDATION

That Council receive the report on Attendance at Department of Local Government Councillor Information Seminar.

Following the local government election in September 2008 and as part of the Councillor development strategy, a seminar was organised and presented via a partnership arrangement between the Department of Local Government, the Local Government and Shires' Associations and Local Government Managers Australia (LGMA). The seminar content was designed to be of value to both new and experienced councillors.

The seminar was an opportunity for newly elected Councillors to hear key information from the Department on roles, responsibilities and relationship; the code of conduct; and meetings practice.

The Department of Local Government requested that a report be presented to the first Council meeting in 2009 as to the level of Councillor attendance at the seminars and any feedback from Councillors about it.

The following Wyong Shire Councillors attended the seminar conducted in Wyong on Monday 13 October 2008:

Councillor Graham (Mayor)
Councillor McNamara (Deputy Mayor)
Councillor McBride
Councillor Matthews
Councillor Symington
Councillor Vincent
Councillor Webster
Councillor Wynn

The following comment was submitted by Councillors who attended:

"The session was very worthwhile for a first time councillor."

ATTACHMENTS

Nil.

8.9 Electoral Funding Disclosures by Councillors

TRIM REFERENCE: D01488703

SUMMARY

This report is to advise Councillors of their obligations under the *Election Funding and Disclosure Act 1981* with respect to the bi-annual reporting conditions.

RECOMMENDATION

- 1 That Council receive the report on Electoral Funding Disclosures by Councillors.**
- 2 That Council receive the advice from the Electoral Funding Authority regarding the obligations of Councillors under the provisions of the Electoral Funding and Disclosure Act 1981.**
- 3 That Council note that it is the responsibility of each Councillor to comply with the reporting provisions of the Electoral Funding and Disclosure Act 1981 and to submit disclosures direct to the Electoral Funding Authority on or before the closing date of 25 February 2009.**

BACKGROUND

Council has been advised by the Election Funding Authority they have written to all newly elected Councillors advising of the following requirements:

“...that as a Local Government Councillor in New South Wales, you must comply with the provisions of the Election Funding Disclosure Act 1981 (‘the Act’). You must submit to the Election Funding Authority (‘the Authority’) a declaration of political donations received and electoral expenditure incurred every six months.”

ATTACHMENTS

1. Letter dated 22 October 2008 from the Election Funding Authority

8.10 Disclosure of Interest Returns

TRIM REFERENCE: D01499134

SUMMARY

In accordance with Sections 449(1) and (5) of the Local Government Act, 1993 Disclosure of Interest Returns for Councillors and Designated Persons have been lodged with the General Manager. Section 450A(1) requires the General Manager to keep a register of the Disclosure of Interest Returns lodged. Section 450A(2) requires the Returns lodged with the General Manager under section 449(1) to be tabled at a meeting of Council.

RECOMMENDATION

That Council receive the report on Disclosure of Interest Returns.

In accordance with the Local Government Act 1993, staff are required to lodge a Return within three months of being appointed to a designated position. Newly elected Councillors had until three months after election to submit a Disclosure. Councillors and staff are also encouraged to lodge an amended return if circumstances change during the year.

Section 450A(2)(a) also specifies that the General Manager must table the returns lodged under Section 449(1). The returns for the period 1 July 2008 to 31 December 2008 are now tabled.

ATTACHMENTS

1. Disclosure of Interest returns 1 July to 31 December 2008

8.12 Water and Sewerage - Works in Progress

TRIM REFERENCE: D01540533

SUMMARY

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

RECOMMENDATION

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

WATER SUPPLY

Work has commenced on the replacement of a 450mm stop valve at Kanangra Reservoir, Kanangra Drive, Crangan Bay.

The existing 450mm stop valve is located on the outlet of the 450mm water trunk main at the base of Kanangra Reservoir. The stop valve is in excess of 33 years of age and was found to be leaking due to severe corrosion. The inspection and replacement work is being undertaken as a proactive measure to minimise the risk of future leakage due to corrosion. The work consists of the installation of a 450mm ductile iron gate valve and a new concrete pit. The old 450mm valve will be replaced with 6m of 450mm ductile iron pipe. The work requires additional fittings for operational changes to occur to supply potable water to the residents in Gwandalan and Summerland Point to minimise water supply interruption.

The replacement of the valve requires the emptying of the reservoir. Council staff will empty Kanangra Reservoir through consumption then take the opportunity to clean the sedimentation accumulated on the walls and floor. Prior to the implementation of water restrictions in 2002 the reservoir was cleaned every two to four years to maintain the distribution of quality potable water to residents in Gwandalan and Summerland Point. Kanangra Reservoir was last cleaned in 2000.

The refurbishment work, estimated to cost \$50,000, is being carried out by Water and Sewerage day labour staff and is due for completion by end of January 2009. The valve work is being funded from the Water and Sewerage Capital Works program and the cleaning of the reservoir is being funded from the Water and Sewerage Operational and Maintenance Works program.

Water Storage

As at 19 January 2009 the storage in Mangrove Creek Dam was 27.7%, Mardi Dam was at 93.1% and Mooney Dam 97.4%, while the total system storage was 31.7%.

The total rainfall recorded for this year to date at Somersby was 31mm. This is significantly lower than the rainfall recorded for the same period in 2008 of 148mm. Low rainfall and higher temperatures in January 2009 when compared to January 2008 in addition to the reduction in water restrictions in March 2008 has resulted in a 23.6% increase in water consumption when compared with the consumption in the same month as last year.

SEWERAGE

Work has commenced on relining a sewer gravity main at Boyce Ave Wyong.

The sewer gravity main is approximately 41 years old and is being upgraded due to high infiltration of natural ground water. The main is half way through its design life. The 3m deep sewer main is located in Crown land, residential property and beneath a public road. To avoid construction damage to the road and residential property, an alternative construction method that avoids excavation will be employed. The work consists of relining approximately 105m of 150mm vitreous clay sewer pipe with rib loc expanda pipe, a strong structural liner expanded to contact the wall of the existing sewer main. The rib loc pipe will be installed from the surface to minimise residential property and road damage to Boyce Ave.

The work, estimated to cost \$50,000, is being carried out by Council's contractors and Water and Sewerage Day Labour staff and is due for completion by end January 2009. The work is being funded from the Water and Sewerage Capital Works program.

PROCESS

Water Treatment

All water produced by the Water Treatment Plant, for the period 1 to 31 December 2008, has met National Health and Medical Research Council Guidelines.

Sewage Treatment

All effluent discharged from the sewage treatment plants, for the period 1 to 31 December 2008, has met Environmental Protection Authority Licence requirements.

ATTACHMENTS

1. Water Storage, Water Usage and Rainfall

8.14 General Works in Progress Report

TRIM REFERENCE: D01540600

SUMMARY

This report shows the current status of completed significant General Works and General Works in Progress for capital and maintenance expenditure, as at the end of December 2008. Water and Sewerage services are not included.

RECOMMENDATION

That Council receive the report on 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
Panorama Avenue Charmhaven. Road and drainage reconstruction	695,000	30	January 2009	Upgrading of the existing road pavement and intersection at Charmhaven Ave to current standards including installation of Kerb and Guttering, Traffic Islands and concrete footpath. Kerb and gutter has been installed and works continuing on the pavement.
Glen Road Ourimbah. Road and drainage reconstruction	610,000	20	January 2009	Reconstruction and sealing of existing section of gravel road to current standards, including widening, realignment works and associated drainage works. Works completed on drainage component.

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
McLachlan Ave -Long Jetty The Entrance Road to Lindsay Street. Road and drainage reconstruction	2,056,518	100	December 2008	Upgrade of existing road including full pavement reconstruction and concrete footpath. Upgrade of drainage works including new box culverts, pipes, kerb and gutter and upgrading of existing channel. All works completed.
Goorama Ave San Remo. Construction left hand turn lane.	240,000	100	December 2008	Construct left hand turn lane at intersection with the Pacific Hwy San Remo. Relocation of footpath, K&G and existing services. Construction of new traffic lane. All works completed.
Cutler Drive, Wyong. Car Park upgrade.	405,850	100	December 2008	Upgrading existing facility. Reconstruct car park pavement including kerb and gutter, drainage, footpaths and protective fencing. All works completed.
Perouse Ave San Remo. Stage 1. Drainage Work.	650,000	100	December 2008	Construct new drainage including installation of new pipelines, entry pits and kerb and gutter. Full road rehabilitation. All works completed.
Fern St Ourimbah. Road and drainage reconstruction	210,000	100	December 2008	Define road width, add gravel and two coat seal Drainage, pipe road crossings and pits. All works completed.
Lakedge Ave Berkeley Vale. Road and drainage upgrades.	433,000	95	January 2009	Upgrading/stabilisation of existing pavement and AC overlay. Upgrading of existing drainage including K&G. Drainage works through existing easement. Road sealed – awaiting AC overlay.

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Eastern Road – Tumbi Umbi. Roadworks and drainage reconstruction.	485,000	35	January 2009	Rehabilitation of existing pavement by stabilisation and AC overlay. Upgrading of existing drainage. Installation of shared pathway. Drainage works completed. Works continuing on shared pathway.

General Maintenance Work

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

	North	South
Drainage Maintenance	Lake Munmorah Halekulani Gwandalan Gorokan	Bateau Bay Tuggerah
Replacement of Damaged Foot paving	Buff Point Woongarra	Nil
Sign Maintenance	Toukley Kanwal Hamlyn Terrace Blue Haven Wadalba Budgewoi Tuggerawong San Remo Canton Beach Wyongah Jiliby Yarramalong Buff Point Gwandalan	Toowoan Bay Berkeley Vale Ourimbah Long Jetty The Entrance Killarney Vale Shelly Beach Bateau Bay Tuggerah Wyong Mardi Chittaway
Shoulder Restoration	Noraville	Berkeley Vale
Heavy Patching	Kulnura Yarramalong	Nil

	North	South
Table Drain Maintenance	Lake Haven Manning Park Chain Valley Bay San Remo Charmhaven Jilliby Budgewoi Toukley Lake Munmorah Gwandalan Halekulani San Remo	Berkeley Vale Long Jetty Bateau Bay Killarney Vale Glenning Valley
Rural Road Grading	Dooralong Yarramalong Ravensdale Jilliby Kiar	Ourimbah Palmdale
Carpark Maintenance	Toukley Budgewoi Norah Head Gorokan	Berkeley Vale
Fencing	Nil	Nil
Vegetation control	Dooralong Jilliby Budgewoi Buff Point Woongarra Halloran Hamlyn Terrace Lake Haven Toukley Chain Valley Bay South and North	Tuggerah Berkeley Vale Tumbi Umbi Ourimbah Watanobbi Wyong The Entrance Killarney Vale Long Jetty

CONTRACTS AND SPECIAL PROJECTS SECTION

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

Contract No	Contract Description	Contract Status	% Completed
Contract 2408	Capture and Commercial Utilisation of Landfill Gas from Buttonderry Landfill	The 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. Council is investigating a final compromise offer to LMS. This is being reviewed in conjunction with Council's legal advisors. In the event the matter is not resolved by the end of January Council may look to terminate the contract.	5
CPA/94531	Consultancy for investigation and design of Link Road and trunk water main to Mardi Dam	Design and tender documentation of the Link Road and adjacent trunk water main complete. Design and tender documentation for the trunk water main connection back to Mardi Dam has been put on hold. If the Link Road does not proceed, an alternative route for the trunk water main has to be determined.	90
CPA/94559	Design and Documentation of Woongarra Sports fields	Tenders called in first week of November, closed 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.	100
CPA/98240	Implementation of Buttonderry Waste Management Facility Entry Master plan	Tenders have closed and tender assessment has commenced. Anticipated that works will start in February 2009 with completion by August 2009. Estimated contract value is \$2.7M.	15
CPA/99940	Construction of Wadalba Sports Facility	Facility in use. Further slit drains and sand topdressing completed in December 2008. Minor defects still to be repaired. Estimated contract value is \$6M.	100
CPA/107166	Warnervale District Sports Fields	Some preliminary investigations and property issues only have been completed. Project still on hold until the Warnervale Town Centre Master Plan is finalised.	2

Contract No	Contract Description	Contract Status	% Completed
CPA/110431	Mardi Landfill Remediation – Investigations Only	Remediation Action Plan (RAP) and concept design expected to be completed by April 2009. Remediation works on the site will be a separate future contract based on the outcomes of the RAP, concept design and subsequent completion of detail design. Cost of remediation works yet to be determined but will be estimated as part of the concept design. Construction is not expected to commence until 2010-11.	30
CPA/114612	Don Small Oval Lighting	Contract awarded October 2008 with commissioning programmed for February 2009. Contract value \$157,000.	1
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.	50
CPA/130590	Consultancy for Investigation and Design of Trunk Sewer Mains to Warnervale Town Centre and Wyong Employment Zone.	Contract awarded to Bonacci Group Pty Ltd January 2008. Sewer alignment changes have been finalised and process to acquire easements commenced. Detail design for Stage 1 expected in February 2009 and construction expected to commence in May 2009. Estimated project construction cost \$8M, with this consultancy costing \$580,000.	65
CPA/130591	Consultancy for Investigation and Design of Trunk Water Mains to Warnervale Town Centre and Wyong Employment Zone.	Contract awarded to SMEC Australia Pty Ltd April 2008. Anticipate completion of design and tender documentation by February 2009. Construction expected to commence June 2009 and be completed by October 2009. Project construction cost \$2M, with this consultancy costing \$265,000.	70
CPA/136020	Gwandalan Landfill Remediation – Investigations Only	Preliminary Investigation Report received and forwarded to accredited auditor for review. On finalisation of Preliminary Report, proposals will be invited for detailed investigation and report for remediation of the site. Contract value \$500,000.	10

Contract No	Contract Description	Contract Status	% Completed
CPA/136398 to CPA/136401	Year Two Upgrade Works – All Holiday Parks (CPA/136398 to CPA/136401)	Slow progress of the works by the Contractor who has lodged a number of disputes. Scope of works reduced to expedite completion by Christmas. Remaining works including camp kitchen to be completed after holiday period. Contact value \$ 1.84m	90
CPA/136486	Investigation, Design and Documentation of Toukley Sewage Treatment Plant Inlet Works Upgrade	Contract awarded to Maunsell Australia Pty Ltd April 2008. Detail design and tender documentation are being reviewed. Construction is expected to commence May 2009 and be completed by December 2009. Estimated project cost \$2.05m, with this consultancy costing \$164,000.	60
CPA/140816	The Entrance Community Facility Stage 2 – Construction	Contract works are progressing. Works are scheduled for completion by March 2009. Project value is \$2.5m.	40
CPA/145543	Construction of Buff Point Shared Pathway	Construction complete for Stage 1 from Edgewater Park to 300m past Matumba Rd – approx. 1.3km of total 3km of planned pathway. Contract awarded December for an additional 300m section east from Buff Point. (Last component of Stage 1) Work expected to be complete February 2009. Design work complete for steep section (Stage 3) near Kemp Close. REF commenced. Stage 2 (easternmost 1km) REF complete. Current funds for this financial year will only allow Stage 1 to be completed. Federal funding likely to permit construction of Stages 2 and 3 mid-late 2009. Estimated cost of construction \$935,000 (overall).	45

Contract No	Contract Description	Contract Status	% Completed
CPA/145814	Design and tender documentation for No 3 Aeration Tank – Charmhaven STP	Contract was awarded to Cardno (QLD) Pty Ltd October 2008. Preliminary design has been reviewed. Target date for completion March 2009. Estimated project cost \$11M, with this consultancy costing \$160,000. Note: reduced fee for redesign of tank and its relocation is due to consultant's previous detailed involvement on aborted tank design for environmental reasons.	20
CPA/155267	Hamlyn Terrace Community and Sporting Facility	Design tender closes 18 December 2008. Estimated value of consultancy \$660,000.	1
F2004/07982	The Entrance Town Centre Refurbishment Works	Current actions being undertaken to address five year work program for TETC include: <ol style="list-style-type: none"> 1. Installation of five pedestrian ramps to lower end of The Entrance Road to be completed by end of June 2009. 2. 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 January 2009. 	50
F2008/02390	Design for Construction of Proposed New Cell 4.2B at Buttonderry Waste Management Facility	Minor contracts for preliminary investigation works awarded. Proposals invited for leachate system investigation and detailed design documentation for new cell. Program is for construction tenders to be called May 2009 for completion by July 2010.	5

CONTRACTS STILL IN DEFECTS LIABILITY PERIOD

Contract No	Contract Description	Contract Status	% Completed
		NIL	

ATTACHMENTS

Nil.

9.1 Answers to Question Without Notice

TRIM REFERENCE: D01590251

9.1 Q061 - Removal of Playground Equipment at Tumbi Umbi

The following question was asked by Councillor Eaton at the Ordinary Meeting on 12 November 2008:

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

In 2003, the Australian Local Government Association Conference resolved to inform NSW Councils of concerns being expressed internationally, about health implications associated with the use of the chemical copper chrome arsenate (CCA) to treat timber playground equipment. The subsequent 2005 report by the Veterinary Medicines Authority was not conclusive in identifying health risks associated with CCA treated structures. Based on these inconclusive results, the Australian Local Government Association recommended that any decision to remove or replace such structures will be one for individual agencies or Councils.

Wyong Shire Council resolved to conduct regular scheduled assessments of existing CCA treated structures with a view to removing them once they were deemed to be non-compliant with Council standards. A wooden structure located at Tumbi Umbi Community Hall, installed in excess of twenty years ago, was deemed non-compliant due to the age and state of deterioration. It was removed as it was no longer considered safe for children to use.

The playground equipment was attached to the Community Hall and was not a stand alone public playground. In the past, playground equipment for community halls has been funded by the user group/s through fund raising efforts. Council's contribution has involved assistance with the installation of the equipment and Council assumed responsibility for maintaining the equipment as it was installed on Council property.

User groups in Wyong Shire who have funded play equipment associated with their Community Hall include Chain Valley Bay Hall, San Remo Neighbourhood Centre, Wyong Neighbourhood Centre, Myrtle Brush Park and Mannering Park Hall.

At a recent inspection of the site, Council staff noted that two swings, a sandpit under shade cloth and a bicycle track (built by the user group), still remain in the playground.

The current play equipment within the playground is considered to be adequate for the number and frequency of regular users.

ATTACHMENTS

Nil.

9.2 Answers to Question Without Notice

TRIM REFERENCE: D01590569

9.2 Q063 - Effects of the State Government's Mini-Budget on Council and the Community

The following question was asked by Councillor Best at the Ordinary Meeting on 12 November 2008:

“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.”

This response details the impacts of the recent State Mini-Budget.

State Government Mini-Budget

The Local Government and Shires Association have provided a summary of the key points and commentary on items directly affecting Local Government.

Mini-Budget Key Points

- The budget forecasts a deficit of \$915 million for 2008-09, a dramatic turn around (\$1.2 billion) on the \$268m surplus estimated in the June 2008 budget.
- The budget provides for savings totalling \$3.3 billion over the next four years, mainly from back-office savings and administrative cuts, including a 20% cut to the Senior Executive Service (SES).
- New revenue measures have been introduced to raise an additional \$3.6 billion. This includes increasing the property tax on investment properties over \$2.25m from 1.6% to 2%.
- 2008-09 stamp duty receipts are down 24% from June 2008 budgeted levels - budgeted to receive \$3.8 billion, now expected to bring in \$2.8 billion
- GST revenue is estimated to fall \$450 million due to the overall economic downturn. 2008-09 economic growth (gross state product) is forecast to drop to 1.25% (from 2.5% in 2007-08) and employment growth to fall to 1.5% compared to 2.4% in 2007-08. Unemployment is expected to rise to 5.25 per cent (from 4.6 per cent in 2007-08). The level of capital spending has only been reduced by \$1 billion, from \$57.6 billion to \$56.8 billion over 4 years.

Asset Sales

The mini-budget confirms the sale of the states retail electricity assets (Integral Energy, Energy Australia and Country Energy). Other assets under consideration for sale include: WSN Environmental Solutions; NSW Lotteries; and the Superannuation Administration Corporation.

Local Government Perspective

General

Local Government was spared the rumoured imposition of payroll tax exemption in this mini-

budget. This would have cost Local Government up to \$187m per year. No changes to development contributions were made in the in the mini-budget however, a Treasury review was announced.

Environment

The government will extend the Waste and Environmental Levy to cover Wollondilly, Blue Mountains and all coastal councils north of the Hunter. The levy rate will be \$10 per tonne from 1 July 2009, with increases of \$10 per tonne per annum, plus movements in the consumer price index, to apply from 1 July 2010 until 2015-2016. The budget also increases the Waste Levy by \$10 per tonne for Sydney, Hunter, Illawarra and Central Coast, and to be indexed to CPI from 1 July 2009. The June Budget provided for an increase of only \$7.

This will result in increased costs to councils of \$20.5m in 2009-10, \$46.8m in 2010-11 and \$80.2m in 2011-12. However, some of the funding is to be distributed to environmental programs.

Rural and Regional Development

The budget confirmed the introduction of a regional development assistance package ("Building the Country") to boost services in regional New South Wales. The package includes funding for the establishment of an infrastructure fund to address infrastructure impediments to otherwise viable business projects, improving access to broadband, adjustment assistance for communities affected by water management reforms and enhancements to community services in regional New South Wales.

The package provides \$85m over 5 years, \$9m in 2008-09.

The Department of Primary Industries plans to consolidate the offices and research stations of Alstonville, Berry, Condobolin, Glen Innes, Gosford, Griffith, Temora and Jindabyne Hatchery over the next three years. The Associations are concerned about the loss of employment, services and local research outcomes from these regional areas.

Emergency Services

The Fire Service Levy is to be extended to include funding for the SES. This will save the state government \$39m per annum. The financial impact on Local Government has been offset by a reduction in Local Governments contribution rate to emergency services from the existing 12.3% and 13.3% to a standard 11.7%. From 1 July 2009 the State Emergency Service will also be funded by the same funding structure as the Rural Fire Service and NSW Fire Brigades. The State Governments contribution has been increased to 14.6%.

Roads

There have been no changes to existing funding for Local Government via Regional Road Block Grants and Repair programs, or the timber bridge upgrade program.

Other changes in the Roads portfolio include:

Expansion of contracted out road maintenance work, saving \$35m over the period 2009/2010 -2011/2012;

Transport

Introduction of an annual co-payment of \$45 for primary students and \$90 for secondary students for access to the school student travel scheme, with a cap of \$180 per family and providing provisions for hardship, increasing revenue by \$33m pa from 2008/2009;

Provision of 300 additional buses over 2 years (2009-10 and 2010-11) to increase service capacity and frequency, with additional recurrent costs of \$97m and capital costs of \$170m over the period 2009/10 – 2011/12; and the

Purchase of additional Oscar train sets (in addition to 121 currently being procured), costing \$397m over the period 2008/09 - 2011/12;

Community Services

Introduction of license fees for providers of children's services from January 2010. Fees will be set to recover administration costs and will range from \$700 per year for small services to \$1,100 for large services. Council-operated childcare and out-of-school hour services may be affected by this charge.

NSW Health

Transfer of remaining State-owned nursing homes to non Government sector, while maintaining continuity of care for residents. There are currently 40 aged care services operated by NSW Health across rural and metropolitan areas in NSW. These services offer residential and transition care to over 700 residents.

Tourism

The recently announced \$40m Tourism strategy will be spread over four years instead of three, reflecting the delayed start to the program.

ATTACHMENTS

Nil.

9.3 Answers to Question Without Notice

TRIM REFERENCE: D01590489

9.3 Q065 - Scheduling of Garbage Collection on Scenic Drive

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

“Could staff report on the feasibility of undertaking garbage collections on Scenic Drive, Budgewoi earlier in the morning prior to traffic conditions increasing for the day?”

Background

Council engaged Thiess Services to provide Waste Collection and Recycling Services to its residents under a 10 year contract commencing 1 February 2008. Under this contract residents east of the Freeway are provided with three bins:

- a 140 litre red bin for garbage
- a 240 litre yellow bin for recycling, and
- a 240 litre green bin for vegetation.

The red bin is emptied weekly and the recycling and vegetation bins are serviced fortnightly, on alternate weeks.

Residents west of the Freeway only have the red garbage bin and the yellow recycling bin.

In addition, residents are entitled to up to six kerbside collections per annum for materials that are too big or too heavy to be placed in the bins. These kerbside collections may be utilised for general household items or vegetation.

Collection of all bins and the bulk collections require Thiess to briefly stop collection trucks at the kerb in front of the property being serviced.

Service Days and Times

Under the contract Thiess is required to provide waste collection and recycling services between Monday and Friday irrespective of public holidays. The starting time of the service is restricted to no earlier than 6.30AM to minimise noise disturbance to residents. It was felt that earlier starting times would negatively impact on residents, particularly during winter months when daylight hours are reduced.

Safety Concerns

Thiess Services approached Council advising that Scenic Road, Budgewoi and Budgewoi Rd, Noraville provide dangerous conditions for collection vehicle drivers and other road users. Between Walu Rd, Budgewoi and Main Rd, Noraville these roads are narrow and provide limited opportunities for vehicles to safely overtake garbage trucks that are stopped on the road verge to collect bins or rubbish. As a result, drivers of other vehicles have been observed engaging in risky driving practices such as overtaking across double yellow lines or navigating around trucks in road corners where vision of oncoming traffic was limited (refer

attached photograph). Such manoeuvres increase the risk of serious accidents.

Actions Taken

Since commencement of the current contract Scenic Road and Budgewoi Road have been serviced around 7.00 AM. Thiess Services was asked to trial servicing this area around 11.00 AM as it was felt that vehicle numbers may reduce once tradesmen and school traffic had ended. This trial established that vehicle numbers do not decrease after 11.00 AM. A traffic count was then conducted to determine the time of day where traffic was lowest, without significantly compromising the amenity of residents. It was found that the number of vehicles on Scenic Drive and Budgewoi Road was significantly lower between 5.30 AM and 6.30 AM.

Changes

In a move to reduce the risk of accidents, garbage trucks commenced servicing bins along Scenic Drive and Budgewoi Road at 5.30 AM from Tuesday, 9 December 2008. A letter drop was conducted advising residents of the new starting time and the reasons for the change. Council has not received any complaints in relation to this change as at the end of December 2008. The situation will continue to be monitored to assess the outcome of this change to collection times.



Vehicle overtaking garbage truck across double yellow line along Scenic Drive, Budgewoi

ATTACHMENTS

Nil.

9.4 Answers to Question Without Notice

TRIM REFERENCE: D01590504

9.4 Q067 - Location of Bus Stops

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

“Can Council advise on how many more new bus stops will be installed at ridiculous locations such as just before the Wyong River Bridge?”

Council entered into a 12 year Agreement with The Claude Group in April 2008 for the supply and installation of 60 new bus shelters. The Agreement includes The Claude Group constructing the shelters at no cost to Council, carrying out all maintenance work and the payment of annual fees to Council in return for advertising rights to each shelter.

By the end of December 2008, 46 new bus shelters were installed at various locations across the Shire. Claude has advised that the remaining 14 shelters will be installed by April 2009 in accordance with the terms of the Agreement.

In relation to the bus shelter now installed on the Pacific Highway immediately south of the Wyong River bridge it is noted that this is located at an existing bus stop. Locations for all new advertising bus shelters have generally been positioned on main roads to [provide an important facility for bus users but also recognises the need for some shelters to be located so as to](#) maximise the potential for advertising revenue as part of the commercial aspects of the new Agreement. This shelter is being used by the public on a regular basis.

The locations for new shelters were determined in consultation with the bus companies and other local authorities such as the Roads and Traffic Authority. Also taken into consideration were requests from residents and community groups. New bus shelters are only being installed at existing bus stops as specified and required by Council under the Agreement.

Council has received positive feedback from the community on the improvements to bus shelter numbers, locations and standards in the Shire. In addition, Council receives an annual income of \$72,000 (excl GST) for the 60 advertising shelters approved to date. The income generated by this project has been used to improve the level of maintenance and condition of Council-owned existing shelters, and allowed additional non-advertising shelters to be provided.

ATTACHMENTS

Nil.

9.5 Answers to Question Without Notice

TRIM REFERENCE: D01590512

9.5 Q069 - Alleged Illegal Council Tip Site

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

"Mr General Manager, further to staffs' recent media alert calling an on-site press conference to expose illegal private dumping on Darkinjung land in Tooheys Road, when Mr General Manager, will senior staff decide to report to Council the existence of a further likely illegal Council tip site, known to staff for some time now, located in McLeay Drive, Halekulani?"

BACKGROUND

Council recently supported the Darkinjung Land Council in their successful bid for a financial grant from the State Government to assist in cleaning up and securing their land at Tooheys Road, Bushells Ridge. This site was subject to extensive illegal dumping. Senior staff were requested to attend the site with representatives of the Land Council to show the level of cooperation between the two organisations. The Darkinjung site is unrelated to the Halekulani Quarry, north of Budgewoi and the subject of this report.

The Halekulani Quarry is located on Macleay Drive, west of Bevington Shores Tourist Park and east of Lake Munmorah Power Station. The site comprises three parcels of land. The northern and centre parts (Lot 588 DP723958, Lot 590 DP728958, Lot 628 DP727733 and Lot 3 DP48143) are Crown Land and the smaller, southern part (Lot 1 DP546875) is owned by Council (refer attached map). The site encompasses an area of about 14 ha.

In 1963 Permissive Occupancy was granted to Council by the Crown for the extraction of gravel. Council operated Halekulani Quarry between 1963 and 1982 to win gravel and other materials for road construction.

In 1982 a BMX track was constructed in the northern section of the site. This activity was discontinued in 1998. In 1993 a development application (DA) was lodged to fill, rehabilitate and landscape the site to permit recreational uses. The application, which included the placement of approximately 140,000 cubic metres of fill material, was approved in September 1993.

Legality of the Site

Between 1993 and 1997 clean natural materials from mainly roads and drainage works were deposited on the site. Early in 2008 further placements of this material were temporarily discontinued pending additional advice on the legality of the site. Councillors may recall from previous briefings that excavation material from The Ridgeway road works was diverted to the Toukley Treatment Works storage area while this advice was being sought.

In December 2008 Council received legal advice that confirmed the consent for the site obtained in 1993 was valid and the rehabilitation activity had lawfully commenced.

Status of the Site

A recent inspection of the site discovered the illegal dumping of minor quantities of mixed waste. In accordance with the newly adopted procedure regarding reporting of pollution incidents, the matter was referred to the Compliance and Regulation Unit who advised that this incident did not require notification to the Department of Environment and Climate Change (DECC) due to its minor nature. The dumped waste was removed on 24 December 2008.

Proposed Actions

Plans are currently under way to recommence the placement of clean, natural excavated materials at the Halekulani quarry site and to progress the rehabilitation works in accordance with the development consent. It is anticipated that the site will be fully secured with a new security fence and an environmental and operational management plan developed and implemented by the end of January 2009. No fill material will be brought onto the site until the adequacy of the proposed environmental controls is confirmed by Council's Compliance and Regulation Unit.

The site was subject to a hazardous material and asbestos survey in December 2008 by a qualified Occupational Hygienist. The survey results will be available to Council within the next 7 to 10 days.

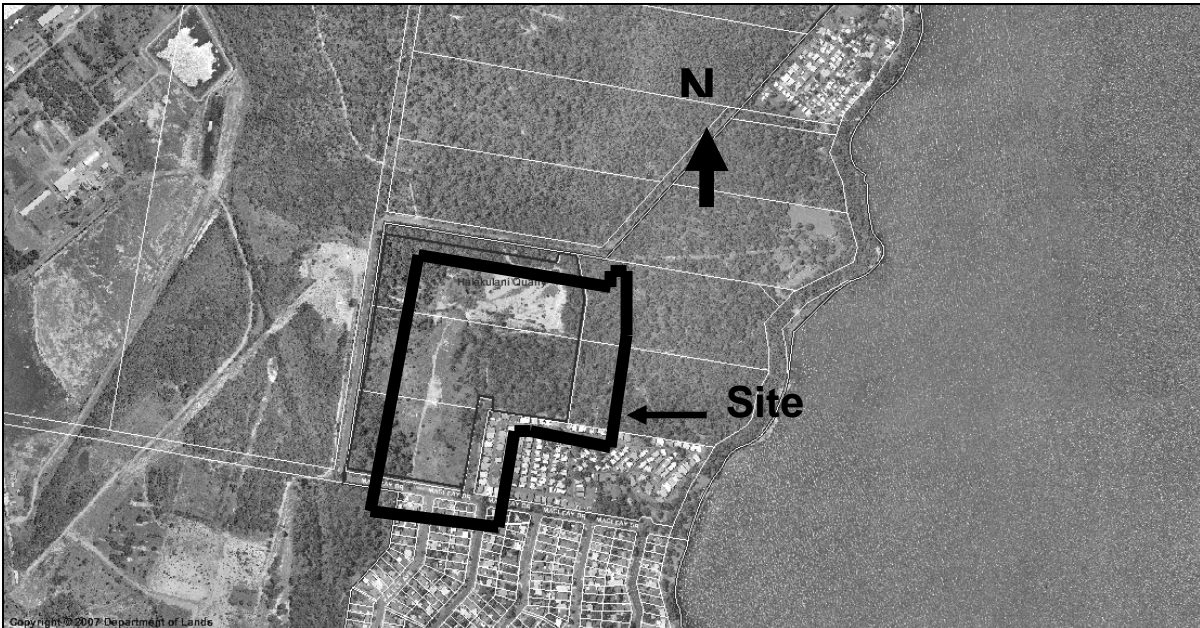
The material to be deposited at the site will be restricted to excavated material sourced from Council's road construction works. This material will be free of contaminants such as asphalt, concrete, timber and asbestos.

Proposed Management

The site will be under the management of the Waste Section (Contracts and Special Projects) to provide an appropriate service/provider split with the operational areas of Council that generate this material. All loads will be inspected and records kept of the quantities of materials received, source of the material and photographic evidence of the quality of the materials.

The site will be progressively rehabilitated. As it is anticipated that the rehabilitation works will take between 8 – 10 years until completion based on current generation rates of clean excavation materials, staged release of the site for recreational purposes is planned. In addition, neighbouring residents will be advised of the recommencement of the rehabilitation works.

The location of the site is shown on the following aerial photograph.



Above: Aerial view of Halekulani Quarry site. The site is bounded by Macleay Drive, Halekulani to the south, west and north. The Bevington Shores Manufactured Home Village is shown in south-east corner as rows of white buildings. Lake Munmorah is to the east.

ATTACHMENTS

Nil.

9.6 Answers to Question Without Notice

TRIM REFERENCE: D01590539

9.6 Q070 - Breaching of Dam Q071 - Legal Requirements of Breach of Dam

The following questions were asked by Councillor Wynn at the Ordinary Meeting on 26 November 2008:

Q070

"Could Council Officers provide a report on the breaching of a dam on 21 November 2008 at Figtree Boulevard West, within the forested treeline of the Wadalba release area given the ecological value of this dam and the resulting disturbance of wildlife that used this dam?"

and

Q071

"Could Council check the legality of breaching the dam at Figtree Boulevard West given EPA and DECC requirements and the legal need to have a Council Officer on site to supervise correct environmental procedures are carrying out work of this nature?"

A dam on the abovementioned property at 531 Pacific Highway, Wadalba and Lot 2602 Van Stappen Road, Wadalba was recently drained of water and subsequently Council has received representations from a number of members of the Wadalba Association and a resident who advised they are a traditional landowner from this area. The residents are concerned about potential ecological issues with the removal of the water and there is also a claim that the area is an aboriginal burial site.

The property has a current development consent (DA/1081/2005) which lapses on 8 May 2009. The works being undertaken are authorised by the consent. The assessment of this application (2005) did not raise any concerns with regard to these two matters, however the following condition was imposed on the consent:

Aboriginal Relics

If Aboriginal engravings or relics are unearthed during construction, all work is to cease immediately and the National Parks and Wildlife Service must be notified. Works may only recommence following endorsement for such from the National Parks and Wildlife Service.

A Council officer has also consulted with the Department of Environment and Climate Change (DECC) in regard to the Aboriginal heritage concerns. Representatives from DECC have investigated the residents' concerns and have concluded that there is no evidence of traditional occupation or activity on this property. As part of its review, DECC conferred with Darkinjung Aboriginal Land Council who confirmed that it has no concerns with the works occurring on the site.

Ecological values

An assessment of the potential environmental impact was undertaken during the assessment of the application for the subdivision of the property. The assessment concluded that there were no environmental issues that would prevent the approval of the development.

Accordingly, Council had no power to restrain this activity on the basis that it was carried out in accordance with a valid development consent. However, the property owner was contacted to ensure that they are aware of the requirements of the consent and that appropriate action was taken to capture and relocate any displaced native fauna.

The requirement to have an appropriately qualified ecologist on site would only apply if this had been a requirement of the approval, which for this development was not the case.

ATTACHMENTS

Nil.

9.7 Answers to Question Without Notice

TRIM REFERENCE: D01590547

9.7 Q072 - Lifeguard Services

The following question was asked by Councillor Graham at the Ordinary Meeting held on 10 December 2008:

"What would be the advantages of tendering the lifeguard services?"

The Surf Life Saving Association (SLSA) is the largest employer of lifeguards in Australia and is usually the only contractor in a position to bid for contracted lifeguard services.

SLSA has claimed a number of advantages to the provision of a contracted service including:

- Management of the Service by industry experts
- Complete management of the service thus freeing up Council management and staff time.
- Access to a well organised 24 hour volunteer duty officer network to address out of hour emergencies
- Access to the Surf Life Saving Surfcom radio network.
- Potentially lower costs (unknown at this stage).

However, unless these claims are tested through comprehensive and detailed investigation, it is difficult to verify whether a contracted service would realise the stated advantages or provide cost benefits to Council.

In addition, Council Lifeguards currently operate a radio network comparative to Surfcom and have access to the 24 hour volunteer emergency network.

It should also be recognised that Council will still have a significant management input, through management of the contract for the community.

Some perceived disadvantages to contracting out the services include:

- Loss of control to Council, but no appreciable diminished risk
- Potential industrial matters with the dismissal/transfer of staff
- Potentially more expensive (unknown at this stage)
- Cost could escalate over time
- Contractors would not have regulatory authority. Current lifeguards as employees are able to be authorised officers under the Local Government Act and Protection of the Environment Operations Act.

At its meeting held on 23 August 2006, Council resolved unanimously on the motion of Councillor Stewart and seconded by Councillor Stevens:

“That Council continues to support the lifeguards being employed on a day labour basis”.

Council's current lifeguard service has been in operation since 1977, covers six beaches and has established high performance standard and safety record with no drownings occurring under Council Lifeguard supervision during this time.

ATTACHMENTS

Nil.

9.8 Answers to Question Without Notice

TRIM REFERENCE: D01590553

9.8 Q073 - Sale of Land for Unpaid Rates

The following question was asked by Councillor Eaton at the Ordinary Meeting on 10 December 2008:

“Did Council authorise or have knowledge of the attached agent’s brochure at Council’s sale of land for unpaid rates that described undevelopable land in Lake Road, Tuggerah as allowing home construction subject to Council approval?”

Councillors were updated on the matter by e-mail on 15 December 2008. Council’s records do not include specific documentation in relation to this brochure.

ATTACHMENTS

Nil.

9.9 Answers to Question Without Notice

TRIM REFERENCE: D01590557

9.9 Q074 - Fisherman's Wharf Access

The following question was asked by Councillor Matthews at the Ordinary Meeting on 10 December 2008:

“When will the access way (foreshore) around Fisherman’s Wharf be opened for the general public?”

Access to the boardwalk on the channel side of the Fisherman’s Wharf development was opened to the general public following the issue of an Occupation Certificate for the ground floor tenancies on Christmas Eve. Interim Occupation Certificates have been issued for two of the ground floor tenancies.

Issue of an Occupation Certificate for the first floor and observation deck is dependant on the satisfactory completion of building activity associated with the first floor tenancy fit out. The developer anticipates completion of this work prior to the end of January 2009.

The observation deck was not open for New Year’s Eve because it is still part of a construction activity site and is not safe for access by the general public.

ATTACHMENTS

Nil.

9.10 Answers to Question Without Notice

TRIM REFERENCE: D01590561

9.10 Q075 - Demolition of New Entry Signs

The following question was asked by Councillor Best at the Ordinary Meeting on 10 December 2008:

"Mr General Manager, I understand that the brand new Shire Entry Sign recently erected by Council at Tuggerah, will now have to be demolished and relocated at the direction of the RTA. Could staff please report on how this has occurred, who will pay and who is responsible for this fiasco resulting in a waste of tax and ratepayer funds?"

The NSW Roads and Traffic Authority (RTA) has ownership of the land at Cobbs Road where one of Council's Shire Entry signs is located. The sign was erected with approval from the RTA at the time and with development approval from Council.

The RTA recently advised that it requires this site to allow it to construct a Variable Messaging Sign (VMS) valued at approximately \$500,000. The VMS will have a significant visual impact and will require Council's sign to be relocated. Council negotiated with the RTA to avoid moving its entry sign but this was unsuccessful. The VMS sign is one of 22 signs being erected across the Central Coast by the RTA as part of a State Government traffic management program.

An alternative location for Council's sign has been found further west of its current location, as shown in the attachment. All works associated with relocating the sign will be funded by the RTA. Preliminary discussions and investigations for constructing Council's sign on the new site have commenced. Construction timing will depend upon the RTA which has indicated the construction of the VMS and relocation of Council's sign will not be completed until mid-2009.

In view of the expected delay in relocation of the entry sign, a decision was made to install the artistic component on top of the wall to provide a completed sign. The cost of this work was minimal and allowed the sign contractor to be paid remaining monies owed to him.

ATTACHMENTS

1. Proposed New Site for Cobbs Road Entry Sign

9.11 Answers to Question Without Notice

TRIM REFERENCE: D01590564

9.11 Q076 - Quality of Workmanship

The following question was asked by Councillor Best at the Ordinary Meeting on 10 December 2008:

"Mr General Manager, I have been approach by a number of local residents living in relatively new apartment blocks at The Entrance, who have highlighted their concerns regarding the quality of workmanship and materials used in the various complexes. I have personally inspected a number of these buildings and I am staggered at the deterioration and apparent corner cutting that has occurred. Could staff provide some background as to what protections and State Departments are available to assist in avoiding a continuation of this quality issue and support of those currently in poor quality buildings?"

Residential flat development construction is generated through the issue of a Development Consent and subsequently, a Construction Certificate under the Environmental Planning and Assessment Regulation 2000. The Certificate can be issued through either Council or private companies acting as the Principal Certifying Authority.

Where Council is the certifying authority, compliance with the Building Code of Australia particularly in relation to fire safety issues is required. Additionally staff endeavour to achieve satisfactory levels of workmanship however standards will vary between developments but still remain compliant. It is also to be noted that some building defects may only become apparent well after the development is completed and an Occupation Certificate issued. This is potentially the case with new building techniques and products coming into the construction industry.

Where a private certifier is involved, Council is not the responsible authority and the certification process and completion of the development is undertaken by the private certifier. A number of recent developments at The Entrance have been undertaken through private certification.

The Department of Fair Trading imposes requirements that a developer must obtain a certificate of insurance for residential flat developments however this is limited by the Department to developments having a rise in storeys of not more than three.

Claims can be made through the Department of Fair Trading where building defects are not satisfactorily rectified by the developer/builder.

In recent times, Council has received a few complaints in regard to this issue and staff have made every effort to follow up where possible to assist the residents affected and staff will continue to do so.

ATTACHMENTS

Nil.

10.1 Notice of Motion - Fleet Cars

TRIM REFERENCE: D01539867

Councillor S A Wynn has given notice that at the Ordinary Meeting to be held on Wednesday, 28 January 2009 she will move the following Motion:

"To see Wyong Shire Council as a leader in the community and change agent through its fleet vehicles;

- 1 That Council provide the incentive to staff to select more environmentally sustainable vehicles and;*
- 2 That Council seek to introduce as alternative technologies approach commercial viability more environmentally sustainable vehicles and introduce these to the fleet."*

10.2 Notice of Motion - Encouraging Responsible Disposal of Asbestos

TRIM REFERENCE: D01590331

Councillor G P Best has given notice that at the Ordinary Meeting to be held on Wednesday, 28 January 2009 he will move the following Motion:

- "1 That as a consequence of escalating public health concerns over the frequent illegal dumping of asbestos material, Council review its asbestos waste disposal policy to further encourage responsible disposal.*
- 2 That staff report to Council on initiatives that may encourage and incentivise more responsible disposal, such as but not limited to trialing a moratorium on asbestos tipping fees over a 12 month period.*
- 3 That Councillors be invited to make further suggestions/recommendations for inclusion in the staff report".*

COUNCILLOR BEST NOTE:

Colleagues, we often see irresponsible dumping of asbestos material in and around our Shire, unscrupulous individuals who have no intention of appropriately disposing of asbestos material, often demolish a structure with little or no regard to themselves or their neighbours health. Then transport the material unclad/covered through our community to often dump it under the cover of dark on private or Council lands, contaminating the site and jeopardising public health.

Children playing often discover the illegal dumping sometime later, Council then dispatches and exposes staff and contractors to clean up the mess to then finally dump the material in our tip at no charge. The intention of this motion is to break this cycle of illegal dumping.

10.3 Notice of Motion - Improved Community Communications

TRIM REFERENCE: D01590338

Councillor G P Best has given notice that at the Ordinary Meeting to be held on Wednesday, 28 January 2009 he will move the following Motion:

- "1 That Council seek to improve its interface with its residents and ratepayers in our more outlying areas through hosting a series of Council meetings/forums held on a quarterly basis in areas such as our far north, valleys, The Entrance and Ourimbah area. Further, it is envisaged that the associated agendas would be developed through consultation with the local community in the respective locations.*
- 2 That staff report to Council on operational issues and recommendations that will facilitate in delivering this communication initiative."*

10.4 Notice of Motion - Recognise Staff on OH&S Initiatives

TRIM REFERENCE: D01590358

Councillor G P Best has given notice that at the Ordinary Meeting to be held on Wednesday, 28 January 2009 he will move the following Motion:

- "1 That further to Council's commitment to workplace safety, Council recognise the outstanding work done by Council's Occupational Health and Safety Committees in particular the recent safety awareness initiative which developed and distributed an OH&S Council calendar depicting important safety tips monthly.*
- 2 That Council through the General Manager provide to both the Indoor and Outdoor OH&S Committees a certificate of recognition as a token of Council's appreciation of their contribution to workplace safety.*
- 3 That Council also recognise staff of Council's OH&S Support Section who contributed and assisted the Committees."*