
WYONG SHIRE COUNCIL

REPORTS TO THE ORDINARY MEETING OF COUNCIL

TO BE HELD IN THE COUNCIL CHAMBER,
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 8 AUGUST 2007,
COMMENCING AT 5.00 PM

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ORDINARY MEETING OF COUNCIL

8 AUGUST 2007

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WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

General Manager's Report

320 Disclosures of Interest

F2006/02282 ED:MR

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

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

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

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

RECOMMENDATION

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

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

General Manager's Report

321 Proposed Inspections

F2006/02282 ED:MR

SUMMARY

Inspections proposed to be held on 22 August 2007 and prior to the second Ordinary Meeting are listed as follows:

Date of Inspection	Location	Requested By
22 August 2007	Lot 5339 DP 1003805 Guardian Road, Watanobbi – DA359/2007 for Mixed Use	Shire Planning
22 August 2007	Tumbi Creek Dredging	Shire Services
22 August 2007	Bus Shelter at Long Jetty – New Concept Design	Shire Services
22 August 2007	Kanwal Preschool & Children's Centre – Refurbishment Works	Shire Services
22 August 2007	Wyong Rugby League Club – Stormwater Harvesting from Kanwal Wetland to Irrigate Sports Fields	Shire Services

RECOMMENDATION

That the report on inspections to be conducted on Wednesday, 22 August 2007 be received and the information noted.

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

General Manager's Report

322 Proposed Briefings

F2006/02282 ED:MR

SUMMARY

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

RECOMMENDATION

That the report be received and the information noted.

Date	Briefing	Description	Time	Presented by
8 August 2007	Changes to Councillors Diaries	Changes to Councillors Diaries	11.00am – 11.30pm	Director Corporate Services
8 August 2007	Joint Water Authority Board Meeting	Briefing on upcoming Water Authority Board Meeting 15 August, 2007	11.30am – 12.30pm	Headworks Projects Officer
8 August 2007	Tuggerah Lakes Works Program	Program of works for continuation through stormwater levy	12.30pm – 1.30pm	Senior Officer, Aquatic Resources Management
8 August 2007	Retail Strategy	Retail Strategy – discuss submissions and progress the Retail Centre review with consultant	1.30pm – 3.00pm	Senior Strategic Planner and Peter Leyshon from Leyshon Consulting

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

General Manager's Report

323 Address by Invited Speakers

F2006/02282 ED:MR

SUMMARY

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

RECOMMENDATION

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

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

General Manager's Report

324 Notice of Intention to Deal With Matters in Confidential Session

F2006/02282 ED:MR

SUMMARY

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

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

RECOMMENDATION

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

W012 – Contract CPA/116095 Management of Toukley Aquatic Centre, Wyong Olympic Pool and The Entrance Ocean Baths
- 2 *That the reason for dealing with the Report No W012 confidentially is that it is information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.***
- 3 *That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.***

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

General Manager's Report

325 Confirmation of Minutes of Previous Meeting

F2006/02282 ED:MR

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 25 July 2007.

RECOMMENDATION

That the minutes of the previous Ordinary Meeting of Council held on 25 July 2007 be received and confirmed.

WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 25 JULY 2007,
COMMENCING AT 4.02 PM

PRESENT

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

IN ATTENDANCE

GENERAL MANAGER, ACTING DIRECTOR SHIRE SERVICES, DIRECTOR CORPORATE SERVICES, DIRECTOR SHIRE PLANNING, ACTING MANAGER DEVELOPMENT ASSESSMENT (ARRIVED 5.22 PM), ACTING MANAGER FUTURE PLANNING (ARRIVED 5.22 PM), MANAGER WASTE AND WATER SERVICES (ARRIVED 5.22 PM) AND AN ADMINISTRATION OFFICER.

THE MAYOR, COUNCILLOR R L GRAHAM, DECLARED THE MEETING OPEN AT 4.02 PM.

APOLOGIES

APOLOGIES FOR THE INABILITY TO ATTEND THE MEETING WERE RECEIVED ON BEHALF OF COUNCILLORS EATON FOR THE REASON THAT HE IS CURRENTLY OVERSEAS ON BUSINESS AND VEUGEN DUE TO ILLNESS.

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

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

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

294 Disclosures of Interest

F2006/02282 MW:SW

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER ADDRESSING COUNCIL IN FAVOUR OF THE APPLICATION IS HIS ACCOUNTANT AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE IT HAS NO IMPACT ON MY DECISION MAKING PROCESS IN REGARDS TO THIS APPLICATION."

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER, MR STUART HAYWARD, PROVIDES ACCOUNTING SERVICES TO HIMSELF AND HIS FAMILY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR ROSE STATED:

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

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR STEVENS DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT MR STUART HAYWARD IS HIS ACCOUNTANT AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEVENS STATED:

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

303 REZONING OF DEFERRED AREA FROM WYONG LEP 1991 - LOT 8106 DP 1085360 AND PART OF LOT 312 DP 80852 JOHNS ROAD, WADALBA

COUNCILLOR GRAHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF THE APPLICANT'S CONSULTANTS MADE A DONATION TO HIS ELECTION CAMPAIGN AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR GRAHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THIS DONATION WAS CORRECTLY RECORDED IN THE ELECTORAL RETURNS WHICH ARE HELD FOR PUBLIC SCRUTINY BY THIS COUNCIL."

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

304 DRAFT LOCAL ENVIRONMENTAL PLAN – LOUISIANA ROAD, HAMLYN TERRACE

COUNCILLOR GRAHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF THE APPLICANT'S CONSULTANTS MADE A DONATION TO HIS ELECTION CAMPAIGN AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR GRAHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THIS DONATION WAS CORRECTLY RECORDED IN THE ELECTORAL RETURNS WHICH ARE HELD FOR PUBLIC SCRUTINY BY THIS COUNCIL."

310 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR FORSTER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF HER CHILDREN ATTENDS A SCHOOL THAT IS RECEIVING AN ALLOCATION FROM THIS ROUND OF COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR FORSTER STATED:

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

310 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR STEVENS DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A LIFE MEMBER OF THE LAKES SURF LIFESAVING CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEVENS STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I HAVE HAD NOTHING TO DO WITH THE LAKES SURF LIFESAVING CLUB MANAGEMENT SINCE 1979."

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

That the report be received and advice of disclosures noted.

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

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

COUNCIL DEALT WITH REPORT 298 AND THEN MOVED INTO CONFIDENTIAL SESSION.

FOLLOWING THE CONFIDENTIAL SESSION, REPORT NOS 295, 296, 297, 302 AND 303, WERE DEALT WITH NEXT THEN THE REMAINING REPORTS IN ORDER. HOWEVER FOR THE SAKE OF CLARITY THE REPORTS ARE RECORDED IN THEIR CORRECT AGENDA SEQUENCE.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

295 Proposed Inspections

F2006/02282 MW:SW

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

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

296 Proposed Briefings

F2006/02282 MW:SW

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

That the report be received and the information noted.

297 Address by Invited Speakers

F2006/02282 MW:SW

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

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

298 Notice of Intention to Deal With Matters in Confidential Session

F2006/02282 MW:SW

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

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

W011 – Cabbage Tree Harbour Landslip

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

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

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

AGAINST: COUNCILLOR BEST.

THE MEETING MOVED BACK INTO OPEN SESSION AND WAS AJOURNED AT 5.11 PM AND RESUMED AT 5.21 PM.

THE ACTING DIRECTOR SHIRE SERVICES UPDATED COUNCILLORS ON THE TUMBI CREEK DREDGING PROJECT.

PASTOR JOHN BETTS DELIVERED THE OPENING PRAYER AT 5.22 PM.

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

W011 Cabbage Tree Harbour Landslip

F2004/07782 GW

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

- 1** *That Council reaffirm its position that it has absolutely no liability whatsoever for any damage which has occurred or may in the future occur either as a result of the safety measures, the landslip or works undertaken in good faith to remediate the problem.*
- 2** *That Council continue to maintain barriers, beach closures and surveillance at Cabbage Tree Harbour until appropriate works are carried out to reduce the risks to public safety in the short term.*
- 3** *That relevant residents in Mitchell Street and Bungary Road be requested to remove their backyard structures, regrade and stabilise the rear yards in accordance with Andrew Shirley's geotechnical advice.*

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

- 4 ***That Council commission, on a 50-50 basis with the State Government, the preparation of a detailed design by consultants for the toe drainage structure and the re-vegetation and stabilisation of Crown land with a detailed cost estimate.***
- 5 ***That, once the detailed design and cost estimate is available, staff report back to Council.***
- 6 ***That any further longer term actions in relation to the landslips at Cabbage Tree Harbour be considered as part of the Coastline Management Study and Plan.***
- 7 ***That the Council, together with its advisors, meet with the relevant residents of Mitchell Street and Bungary Road.***

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

AGAINST: COUNCILLORS BEST AND PAVIER.

299 Confirmation of Minutes of Previous Meeting

F2006/02282 MW:SW

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

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

BUSINESS ARISING FROM THE MINUTES

IN REGARD TO REPORT 274 – DISCLOSURES OF INTEREST, COUNCILLOR WELHAM ASKED WHETHER THE DISCLOSURE OF INTEREST MADE BY COUNCILLOR BEST HAD BEEN RECORDED CORRECTLY AS HE BELIEVED IT WAS CONTRADICTORY. COUNCILLOR BEST INFORMED HIS DISCLOSURE HAD BEEN RECORDED ACCURATELY, INFORMING HE CHANGED THE FORM TO ACCOMMODATE HIS DISCLOSURE.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

300 Notice of Motion – Ourimbah Creek Environmental Flows

F2006/01040 MR

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

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

The MOTION was WITHDRAWN.

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

That Council request the Estuary Management Committee to report on the impacts of the approval to decrease bypass flows at the Ourimbah Creek Weir to 3MI/day.

LEAVE TO INTRODUCE A MOTION OF URGENCY

COUNCILLOR BEST SOUGHT TO INTRODUCE A MOTION OF URGENCY CONCERNING THE ENTRANCE CHANNEL.

THE MAYOR RULED THAT THE MATTER WAS URGENT AND COULD BE INTRODUCED AS A MATTER OF URGENCY.

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

That Council consider a motion of Urgency regarding The Entrance Channel.

FOR: COUNCILLORS BEST, FORSTER, GRAHAM, STEWART AND WELHAM.

AGAINST: COUNCILLORS PAVIER, ROSE AND STEVENS.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

300A Motion of Urgency – The Entrance Channel

F2004/06027

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

That with respect to the recent major multiple storm events and the resultant blow out of The Entrance Channel to some now 400m in width, Council as a matter of urgency receive a report from staff regarding any actions or intervention that may be considered by Council to protect public safety in and around the channel while also seeking to limit Council's risk profile of this escalating danger.

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

AGAINST: COUNCILLORS GRAHAM, PAVIER AND ROSE.

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

F2004/06808 ED

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

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

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

“5.1 Drought Status Report:

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

It was MOVED by Councillor GRAHAM and seconded by Councillor STEVENS:

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

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

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

That the decision to move from Level 4 water restrictions to Level 3 water restrictions be deferred pending further discussions with Gosford City Council and that in the event of failing to convince Gosford City Council that Wyong Shire Council remain at Level 4 water restrictions.

FOR: COUNCILLORS BEST AND PAVIER.

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

The AMENDMENT was put to the VOTE and declared LOST.

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

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

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

AGAINST: COUNCILLORS BEST AND PAVIER.

302 Proposed Four Storey Mixed-Use Building at East Toukley

DA/2474/2005 DMD/WKW

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER ADDRESSING COUNCIL IN FAVOUR OF THE APPLICATION IS HIS ACCOUNTANT AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE IT HAS NO IMPACT ON MY DECISION MAKING PROCESS IN REGARDS TO THIS APPLICATION."

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER, MR STUART HAYWARD, PROVIDES ACCOUNTING SERVICES TO HIMSELF AND HIS FAMILY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR ROSE STATED:

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

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR STEVENS DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT MR STUART HAYWARD IS HIS ACCOUNTANT AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEVENS STATED:

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

MR STUART HAYWARD, A LOCAL BUSINESS PERSON, ADDRESSED THE MEETING AT 5.34 PM, ANSWERED QUESTIONS AND RETIRED AT 5.47 PM.

It was MOVED by Councillor STEVENS and seconded by Councillor STEWART:

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

An AMENDMENT was MOVED by Councillor ROSE:

- 1 That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions.*
- 2 That staff report back to Council on the options to facilitate alternative access to the site via the extension of Bucks Lane.*

The AMENDMENT lapsed for want of a SECONDER.

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

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

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

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

AGAINST: COUNCILLOR BEST.

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

F2005/00562 SI/SD:NH

303 REZONING OF DEFERRED AREA FROM WYONG LEP 1991 - LOT 8106 DP 1085360 AND PART OF LOT 312 DP 80852 JOHNS ROAD, WADALBA

COUNCILLOR GRAHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF THE APPLICANT'S CONSULTANTS MADE A DONATION TO HIS ELECTION CAMPAIGN AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR GRAHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THIS DONATION WAS CORRECTLY RECORDED IN THE ELECTORAL RETURNS WHICH ARE HELD FOR PUBLIC SCRUTINY BY THIS COUNCIL."

COUNCILLOR PAVIER LEFT THE CHAMBER AT 7.00 PM AND RETURNED TO THE CHAMBER AT 7.02 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR ROSE LEFT THE CHAMBER AT 7.13 PM AND RETURNED TO THE CHAMBER AT 7.15 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR PAVIER LEFT THE CHAMBER AT 7.13 PM AND RETURNED TO THE CHAMBER AT 7.16 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST LEFT THE CHAMBER AT 7.32 PM AND RETURNED TO THE CHAMBER AT 7.33 PM DURING CONSIDERATION OF THIS ITEM.

MR RAY RAUSCHER, REPRESENTING THE WADALBA ASSOCIATION, ADDRESSED THE MEETING AT 6.34 PM, ANSWERED QUESTIONS AND RETIRED AT 6.52 PM.

MR PATRICK PERELLI, ABORIGINAL HERITAGE ADVISOR, ADDRESSED THE MEETING AT 6.53 PM, ANSWERED QUESTIONS AND RETIRED AT 7.10 PM.

MR PETER JOHNSON, REPRESENTING JOHNSONS PARTNERS, ADDRESSED THE MEETING AT 7.22 PM, ANSWERED QUESTIONS AND RETIRED AT 7.27 PM.

MR TOM CUMMINS, REPRESENTING WESTMINISTER, WAS AVAILABLE TO ANSWER QUESTIONS.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

It was MOVED by Councillor FORSTER and seconded by Councillor STEWART:

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

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

That this report be deferred for a period of a fortnight.

FOR: COUNCILLORS BEST, PAVIER AND WELHAM.

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

The AMENDMENT was put to the VOTE and declared LOST.

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

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

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

3 That subject to two above, the Minister be requested to create the Local Environmental Plan in accordance with Section 70 of the Environmental Planning and Assessment Act, 1979.

4 That Council's Section 149 Certificates be noted.

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

AGAINST: COUNCILLORS BEST, PAVIER AND WELHAM.

THE MEETING WAS AJOURNED AT 7.50 PM AND RESUMED AT 7.54 PM.

304 Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace

F2004/07783 JEL:JP

304 DRAFT LOCAL ENVIRONMENTAL PLAN – LOUISIANA ROAD, HAMLYN TERRACE

COUNCILLOR GRAHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF THE APPLICANT'S CONSULTANTS MADE A DONATION TO HIS ELECTION CAMPAIGN AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR GRAHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THIS DONATION WAS CORRECTLY RECORDED IN THE ELECTORAL RETURNS WHICH ARE HELD FOR PUBLIC SCRUTINY BY THIS COUNCIL."

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

1 That draft LEP (Amendment 163) be referred to the Minister for Planning in accordance with Section 70 of the Environmental Planning and Assessment Act, 1979 with a request that it be created.

2 That in accordance with Clause 21 of the Environmental Planning and Assessment Regulations 2000, the amendment to draft DCP 2005: Chapter 49 Warnervale East and Wadalba North West Urban Release Area be adopted and become effective as of the date that LEP (Amendment 163) is gazetted.

3 That the Department of Planning be requested to revise the wording of draft Clause 42G contained in draft LEP (Amendment 163) to provide more detail concerning the monetary contribution amount and intended uses targeted by the Regional Transport Infrastructure and Services Levy.

4 That those who made submissions be advised of Council's decision.

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

AGAINST: COUNCILLORS BEST AND PAVIER.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

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

F2004/10840 JMT

It was MOVED by Councillor WELHAM and seconded by Councillor GRAHAM:

That the matter be deferred for a briefing to understand Councils' policy and to explore other areas related to community group use of Council facilities.

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

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

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

AGAINST: COUNCILLORS GRAHAM, PAVIER, AND WELHAM.

The AMENDMENT became the MOTION.

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

- 1 That Council lease Lot 1 DP 746917, 33 Kooloora Road, Noraville to the Girl Guides Association (NSW) for a term of 21 years commencing 3 October 2007 for nominal rent.***
- 2 That the proposed lease be advertised in accordance with Section 47 of the Local Government Act 1993.***
- 3 That, if no adverse submissions are received, the lease in item 1 be completed.***

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

- 4 ***That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the Lease between the Wyong Shire Council and the Girl Guides Association (NSW).***
- 5 ***That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between the Wyong Shire Council and the Girl Guides Association (NSW).***

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

AGAINST: COUNCILLORS PAVIER, AND WELHAM.

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

DA/678/2005 SB

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

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

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

AGAINST: COUNCILLORS BEST AND PAVIER.

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

DA/902/1997 SB

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

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

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

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

F2007/00800 PF

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

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

309 Revised Code of Meeting Practice

F2004/06502 ED

COUNCILLOR WELHAM LEFT THE CHAMBER AT 9.06 PM AND RETURNED TO THE CHAMBER AT 9.07 PM DURING CONSIDERATION OF THIS ITEM.

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

That the Code of Meeting Practice be adopted with the following conditions;

- 1 *Item 28 How Subsequent Amendments May Be Moved, the last paragraph should read "Amendments should be debated in the order in which they were put to the meeting".***
- 2 *Item 9 Election of Mayor – Calling of Extraordinary Meeting, Section 5 Returning Officer and Ballot Paper, the second paragraph to be checked for clarity.***

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

AGAINST: COUNCILLORS BEST AND PAVIER.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

310 Proposed Councillors' Community Improvement Grants

F2006/00788, F2007/00729 SG

310 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR FORSTER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF HER CHILDREN ATTENDS A SCHOOL THAT IS RECEIVING AN ALLOCATION FROM THIS ROUND OF COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR FORSTER STATED:

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

310 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR STEVENS DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A LIFE MEMBER OF THE LAKES SURF LIFESAVING CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEVENS STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I HAVE HAD NOTHING TO DO WITH THE LAKES SURF LIFESAVING CLUB MANAGEMENT SINCE 1979."

COUNCILLOR FORSTER LEFT THE CHAMBER AT 9.25 PM AND RETURNED TO THE CHAMBER AT 9.29 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

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

311 Closure of Walkways at Finch Place, Bateau Bay

F2006/00505 TC:SMF

COUNCILLOR FORSTER LEFT THE CHAMBER AT 9.25 PM AND RETURNED TO THE CHAMBER AT 9.29 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That Council approve the permanent closure of the two walkways in Finch Place, Bateau Bay.***

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

2 That Council approve:

- * *An application to the Minister for Lands for the Closure of the Public Road status for the walkways.*
- * *The lands from the closed walkways be classified as Operational Land.*
- * *The proposed Operational Classification be advertised in accordance with Section 34 of the Local Government Act 1993. That, if no adverse submissions are received, the classification be confirmed.*

3 That subject to recommendations 1 and 2 above, Council authorise:

- * *Disposal of the land to adjoining owners in each case at a market price based on assessment by a qualified valuer.*
- * *The sale of the lands be subject to a reservation in favour of Council of easement rights.*
- * *In the event agreement with the adjoining property owners cannot be achieved in the terms set by Council, a further report be submitted to Council on the prospects for retention or other distribution of the land.*

4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Transfers.**5 That Council authorise the Mayor and the General Manager to execute the transfers.**

312 Gosford and Wyong Councils' Water Authority Board Meeting

F2004/06808

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

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

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

313 Information Reports

F2006/02282 MW:SW

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

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

THERE WERE NO INFORMATION REPORTS IDENTIFIED FOR INDIVIDUAL CONSIDERATION.

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

That the exception method be adopted as the standard recommendation for Information Reports.

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

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

314 State and Federal Government Budgets for 2007/2008

F2004/06377 NS:NS

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

That the report be received and the information noted.

315 Wyong Shire Library Statistics

F2004/11651 JM/JM

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

That the report be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

316 Crown Land at Lake Road, Tuggerah

F2004/08318 NAL:NAL

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

That the report be received and the information noted.

317 Works in Progress Report – Water and Sewerage

F2004/07830 KRG:DP

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

That the report be received and the information noted.

318 Works in Progress Report - General

F2004/07830 JEM

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

That the report be received and the information noted.

319 Outstanding Questions Without Notice and Notices of Motion

F2006/02282 MW:SW

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

That the report be received and the information noted.

QUESTIONS WITHOUT NOTICE ASKED**Q067 – Entry and Exit to Bunnings and Harvey Norman at Lake Haven****Councillor Welham**

DA/2793/2003/M

“Can staff review the operation of the entry/exits and car park of the newly opened Bunnings/Harvey Norman site at Lake Haven, especially the entry/exit opposite Twin Lakes Drive where I have witnessed a number of near misses where drivers are exiting through an entry lane?”

Q068 – State Cabinet Meeting held in Wyong 23 July 2007**Councillor Welham**

F2004/05434

“Could the General Manager provide a report on the recent NSW Cabinet Meeting held in Wyong including a list of meetings held between staff and Ministers and matters raised?”

Q069 – Lease of The Entrance Visitor’s Centre to Central Coast Tourism Incorporated**Councillor Forster**

F2004/12356

“Can staff provide a report detailing the progress of negotiations between Council and Central Coast Tourism Incorporated regarding CCTI’s leasing of the Visitor’s Centre at Memorial Park, The Entrance?”

Q070 – State of Repair of the Jetty at Long Jetty**Councillor Stewart**

F2004/00536

“Further to my previous question on the state of repair of the Long Jetty, could I please have the details on the repair/works programme of the Jetty?”

Q071 – Demolition of House on the Corner of Warrigal and Taylor Streets, The Entrance**Councillor Stewart**

P2005/07069

“Further to my previous question on the demolition of the house on the corner of Warrigal and Taylor Streets, could I please have an urgent report on where the Council is regarding this matter?”

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

Q072 – Thank you to Council’s Rangers

Councillor Best

F2004/05339

“Our Rangers deal with many difficult and volatile issues on a daily basis. From a local resident who recently witnessed our Rangers handling a most challenging situation with intoxicated youth, the advice I received was the matter was handled with extreme professionalism and the explosive situation was diffused. On behalf of Council would you please pass on to our Head Ranger, Mr Hinds, a vote of confidence on a job well done? Thank you.”

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 9.35 PM.

.....
CHAIRPERSON

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

326 Notice of Motion – National Natural Disaster Funding

F2007/00900 MR

Councillor D J Eaton has given notice that at the Ordinary Meeting of Council to be held on Wednesday, 8 August 2007 he will move the following Motion:

"That Council, via the Federal Local Members, request National Natural Disaster Funding include coastal erosion events and Council expenditure on preventative and remedial action."

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

327 Notice of Motion – Chain Valley Bay Hall

F2006/02022 MR

Councillors C V Veugen, G P Best and R E Stewart have given notice that at the Ordinary Meeting of Council to be held on Wednesday, 8 August 2007 they will move the following Motion:

- “1 That Council recognise the already significant contribution made by the Chain Valley Bay Hall Committee in funding:
- a Half the cost of the initial hall construction.
 - b Two thirds the cost of the hall extension.
 - c All the costs of the basketball courts - \$28,000.
 - d All the cost of playground equipment at the hall.
 - e All the cost of playground equipment at the boat ramp.
- 2 That in order for the Hall Committee to fund the identified needs of other important projects such as:
- Softfall for playground area - \$15,000
 - New chairs for hall - \$2,600
 - New tables for the hall - \$1,600
 - Picnic tables for the playground area for playgroup mums
- Council fund the full cost of security fencing around the local community hall at a cost of approximately \$12,000.”

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

328 Proposed Draft LEP Amendment in Respect of LEP Bundle 2

F2007/00207, F2007/00208, RZ/1/2007, F2007/00599, F2007/00600, F2007/00677 PB:PB

SUMMARY

Council recently initiated or received applications for the preparation of draft local environmental plans (LEP) in respect of the following:

- * Proposed Performing Arts Centre (PAC) site, Rankens Court, Wyong;
- * Memorial Hall, Margaret Street, Wyong; and
- * Amendments to Schedule 1 – Heritage Items of Wyong LEP 1991 to list or update heritage items of significance.

In accordance with Council's *Rezoning Procedure* (August 2006), the applications will form the components of LEP Bundle 2. LEP Bundle 2 has been examined having regard to relevant matters under the *Environmental Planning and Assessment Act (EP&A Act) 1979* and other requirements, with the issues requiring attention and consideration being addressed in this report.

RECOMMENDATION

- 1 That in accordance with Section 54 of the Environmental Planning and Assessment Act 1979, Council prepare a draft Local Environmental Plan to:**
 - a Rezone Lot 4 DP 659489, Rankens Court, Wyong from 5(a) (Special Uses – Carparking Zone) to 3(a) (Business Centre Zone) to ensure consistent zonings across the proposed Performing Arts Centre site.**
 - b Rezone Lots 1-4 Section 7 DP 3136, Margaret Street, Wyong from 5(a) (Special Uses – Community Purposes Zone) to 3(a) (Business Centre Zone) to facilitate the appropriate disposal of the Memorial Hall on a commercial sale basis following transition to the proposed new Performing Arts Centre.**
 - c Amend Schedule 1 of Wyong Local Environmental Plan 1991 to:**
 - i List the Bulk Store Building located on Lot 11 DP 1091396, Ruttleys Road, Mannering Park as a Heritage Item of Local Significance.**
 - ii List The Entrance Ocean Baths located on Lot 366 DP 755263 as a Heritage Item of State Significance.**
 - iii Upgrade the classification of the Norah Head Lightstation Precinct and St Barnabas Church, Yarramalong from Heritage Items of Regional Significance to Heritage Items of State Significance.**

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

- 2** *That Council confirm its support for the listing of the former Wyong Dairy Co-operative as a Heritage Item of Local Significance in accordance with Council's resolution of 8 November 2006.*
- 3** *That the Director-General of the Department of Planning be advised of the decision as soon as practicable.*
- 4** *That the draft Local Environmental Plan be referred to the appropriate authorities for comment.*
- 5** *That the Director-General of the Department of Planning be requested to issue a certificate pursuant to Section 65 of the Environmental Planning and Assessment Act, 1979 to permit the public exhibition of the draft local environmental plan.*
- 6** *That prior to the draft Local Environmental Plan being placed on exhibition:*
 - a** *A Conservation Management Plan (CMP) be prepared at the applicant's cost by an appropriately qualified consultant and to Council's satisfaction in accordance with the Burra Charter in respect of the Bulk Store Building located on Lot 11 DP 1091396, Ruttleys Road, Mannering Park.*
 - b** *The Natural Heritage values of Lot 11 DP 1091396, Ruttleys Road, Mannering Park be surveyed and assessed by the applicant as part of the CMP in accordance with the manual Protecting Heritage Places (Australian Heritage Commission, 2000).*
 - c** *That the applicant be given the opportunity to make submissions to the persons preparing the CMP regarding adaptive re-use on the site at the applicant's cost.*
 - d** *A hazard and risk assessment be undertaken across the site to identify potential hazards and recommending measures to ensure ongoing safety of the occupiers and visitors to the site.*
- 7** *That upon receipt of the Section 65 Certificate from the Department of Planning, the draft Local Environmental Plan be advertised.*
- 8** *That should no significant objections be received as a result of the exhibition, the Minister for Planning be requested to create the Local Environmental Plan.*

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

- 9** *That on commencement of the Shire-wide Heritage Review, all items currently listed as 'Heritage Items of Regional Significance' be reassessed to determine their appropriate classification, as Heritage Items of Local or State Significance.*
- 10** *That Council's Section 149 Certificates be noted.*

INTRODUCTION

Council has recently initiated or received applications for the preparation of a number of draft Local Environmental Plans to either rezone certain properties or to amend Schedule 1 of *Wyong Local Environmental Plan 1991* so as to list or update heritage items of significance.

Council, on 23 August 2006, adopted a *Rezoning Procedure* aiming to limit the number of Local Environmental Plan amendments prepared each year. In accordance with this procedure, the following items form LEP Bundle 2.

Site Specific Rezoning

- * Proposed Performing Arts Centre site, Rankens Court, Wyong; and
- * Memorial Hall site, Margaret Street, Wyong.

Amendments to Schedule 1 – Heritage Items

New Listings under Schedule 1 – Heritage Items

- * Bulk Store Building, Ruttleys Road, Mannering Park;
- * The Entrance Ocean Pools, Ocean Parade, The Entrance; and
- * Former Wyong Dairy Co-operative, Alison Road, Wyong.

Reclassification to Heritage Items of State Significance

- * Norah Head Lightstation Precinct, Bush Street, Norah Head; and
- * St Barnabas Anglican Church, Yarramalong Road, Yarramalong.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

DISCUSSION ON LEP BUNDLE 2

The following provides background information on each of the items in LEP Bundle 2.

Site Specific Rezoning

Background

Proposed PAC Site, Rankens Court and Memorial Hall Site, Margaret Street, Wyong

A Cultural Plan for Wyong Shire 2005 was developed to 'provide an immediate and long-term direction for culture and the arts for Wyong Shire.' The Plan recognises the provision of a PAC in Wyong as Council's highest priority.

Subsequent to the adoption of *A Cultural Plan in Wyong Shire*, a Study was commissioned to investigate the feasibility of a PAC; the relative needs of performing arts practices in Wyong and further detailed the merits of two potential sites. Option 1 considered establishing the PAC on the 'River Road' site, namely Lot 4 DP 659489, Rankens Court; Lots 1-4 DP 421613, Church Street; an unformed public laneway and subject to the final design of the proposed centre, Rankens Court, Wyong. Option 2 considered redeveloping the existing Memorial Hall site on Lots 1-4 Sec 7 DP 3136, Margaret Street Wyong.

At its meeting on 23 August 2006, Council considered a report on the PAC Feasibility Study. The report detailed the assessment of both options and concluded that Option 1 River Road was the preferred site for the construction of the proposed PAC. In order to assist with the funding of the proposed PAC, the report recommended the disposal of the Memorial Hall on a commercial basis. Accordingly, Council resolved the following:

- "1 That Council develop an arts centre for a diversity of cultural uses but focussing on the performing arts;*
- 2 That Council establish the proposed Performing Arts Centre at site Option 1 (River Road);*
- 3 That Council commission a detailed business plan and concept design for the proposed Performing Arts Centre;*
- 4 That Council commence spot rezonings for both the Memorial Hall site and River Road site in accordance with this report.*
- 5 That Council commence a process for the appropriate disposal of the Memorial Hall on a commercial sale basis following transition to the proposed new Performing Arts Centre."*

In accordance with the Council resolution, a draft LEP for both the proposed PAC site and the Memorial Hall site is being prepared concurrently (see Attachment 2 and 3 for location).

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

Council Policy, Strategic Implications and Issues

Proposed PAC Site, Rankens Court, Wyong

a Wyong LEP 1991:

The proposed PAC site is currently zoned part 5(a) (Special Uses – Carparking Zone) and part 3(a) (Business Centre Zone). The 5(a) (Special Uses – Carparking Zone) generally aims to cater for the provision of community and public facilities and services, while the 3(a) (Business Centre Zone) aims to provide the opportunity for the development of retail and commercial activities that are appropriate to the character and needs of individual business centres.

While the proposed PAC site is permissible within both zones, the draft LEP aims to rezone Lot 4 DP 659489 from 5(a) (Special Uses – Carparking Zone) to 3(a) (Business Centre Zone) to ensure consistency with land use across the site.

As outlined, Council considered a report on the feasibility of establishing a Performing Arts Centre in Wyong. The report detailed two potential sites for the proposed development and discussed the potential acquisition of the unformed public laneway between Lot 4 DP 659489 and Lots 1-4 DP 421613. Clause 50 of *Wyong LEP 1991* relating to development on public roads is triggered by the potential acquisition of the laneway. Clause 50 states:

- "1 A person shall not carry out development on a public road shown on the map or part of such road lawfully without the consent of the Council.*
- 2 The Council shall grant its consent under subclause (1) only for a purpose which may be carried out either with or without consent of the Council on land adjoining that road".*

Given that the proposed draft LEP acts to rezone Lot 4 DP 659489, Rankens Court, Wyong to 3(a) (Business Centre Zone) and that Lots 1-4 DP 421613 are currently zoned 3(a) (Business Centre Zone), the redevelopment of the unformed public laneway for the proposed PAC will be consistent with Clause 50 of *Wyong LEP 1991*.

b Other Council Policies and Plans:

The PAC component has been assessed having regard to other Council policies and plans and is considered to be generally consistent with all relevant policies and plans. Those plans requiring more detailed discussion are outlined within Attachment 4.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

The proposed draft LEP aims to rezone Lot 4 DP 659489, Rankens Court, Wyong from 5(a) (Special Uses – Carparking Zone) to 3(a) (Business Centre Zone) to provide consistent zonings across the proposed PAC site; and in addition aims to rezone Lots 1-4 Sec 7 DP 3136, Margaret Street, Wyong from 5(a) (Special Uses – Community Purposes Zone) to 3(a) (Business Centre Zone) to enable the appropriate disposal of Council's Community Hall following the commissioning of the proposed PAC.

c Relevant Issues:

Context and Setting

The subject site, consisting of Lot 4 DP 659489, Lots 1-4 DP 421613 and an unformed public laneway, is bounded by Church Street to the north and River Road to the south; Rankens Court to the east and 2(c) (Medium Density Residential Zone) land to the west.

Given that the site is located within the Wyong Town Centre and situated in proximity to the Wyong River, the 'River Road' site was considered the most appropriate location for the proposed PAC due to accessibility, proximity to services, land ownership and the ability to contribute to the activation of the Wyong River frontage and town centre revitalisation.

Utilities

Lot 4 DP 659489, Rankens Court and Lots 1-4 DP 421613, Church Street, Wyong have existing urban development to the north, east and west.

All required utility services, including sewer, are available in the locality and subject to augmentation in some cases, are capable of being supplied to the proposed PAC. While Council's Investigation Engineer has advised that the proposed PAC is currently serviceable by existing water infrastructure, minor components will require upgrading in order to provide adequate domestic and fire fighting requirements to the proposed development and existing surrounding development.

Flooding

The southern portion of Lot 4 DP 659489 has been identified as being affected by the 1 in 100 year flood level and experiences high velocity flooding from Wyong River. While the warning period for flood conditions is sufficient for the timely evacuation of the PAC patrons, the design of the PAC is required to have regard for these conditions and flood management plan should be prepared.

While design issues are more appropriately dealt with during the development application stage for the proposed PAC, the identification of flood affectation across Lot 4 DP 659489 triggers Section 117 Ministerial Direction No. 15 – Flood Prone Land and is discussed in Attachment 10.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

Bushfire Hazard

The southern portion of Lot 4 DP 659489 has been identified under Section 146 of the *EP&A Act, 1979* as Bushfire Prone Land Buffer Zone. Accordingly, the rezoning application and the development application for the proposed PAC must have regard for the document *Planning for Bushfire Protection 2006*.

While the implications of *Planning for Bushfire Protection 2006* on the design and construction of the proposed PAC are more appropriately dealt with during the development application stage, the identification of Bushfire Prone Land on Lot 4 DP 659489 triggers Section 117 Ministerial Direction No. 19 – Planning for Bushfire Protection and is discussed in Attachment 10.

Access, Transport and Traffic

A Design Brief is currently being prepared for the proposed PAC. A Traffic Study which is currently being undertaken by the Future Planning Unit will identify requirements in terms of access, transportation and traffic. These issues are more appropriately dealt with during the finalisation of the Design Brief, with the results of the traffic study and its implications for the proposed PAC being assessed during the development application stage.

Memorial Hall Site, Margaret Street, Wyong

a Wyong LEP 1991:

Lots 1-4 Sec 7 DP 3136, Margaret Street, Wyong are currently zoned 5(a) (Special Uses – Community Purposes Zone), the proposed draft LEP involves rezoning the site to 3(a) (Business Centre Zone). This will allow for the development of commercial activities that are appropriate to the character and needs of individual town centres.

Given the location of the Memorial Hall in terms of other services and facilities within the Wyong Town Centre, the proposed rezoning of Lots 1-4 Sec 7 DP 3136 is considered appropriate. In addition and in accordance with Council's resolution, the 3(a) (Business Centre Zone) will facilitate the appropriate commercial sale of the Memorial Hall following its transition to the proposed PAC.

b Other Council Policies and Plans:

The Memorial Hall component has been assessed having regard to other Council policies and plans and is considered to be generally consistent with all relevant policies and plans. Those plans requiring more detailed discussion are outlined within Attachment 4.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

c Relevant Issues:**Context and Setting**

The site is bounded by 2(c) (Medium Density Residential Zone) land to the north; Pauline Lane to the east; Anzac Avenue to the south; and Margaret Street to the west. Given that the site is located within the Wyong Town Centre and situated in proximity to the Wyong River, rezoning the site to 3(a) (Business Centre Zone) land will contribute to the activation of the town centre revitalisation and its sale will assist funding construction of the proposed PAC.

Utilities

All required utility services, including sewer, are available in the locality and subject to augmentation in some cases, are capable of being supplied to future development on the Memorial Hall Site. While Council's Investigation Engineer has advised that the future development is currently serviceable by existing water infrastructure, minor components may require upgrading having consideration for the future uses on the site.

Flooding

The Memorial Hall site experiences flooding from an under capacity local drainage system and is known to have flooded in excess of 0.5 metres over the last 10 years during small storm events. Although some detailed drainage studies were undertaken in 1991 to identify remedial works, further investigations will be required to ensure future development is appropriate to the environmental considerations of the site. From rainfall records, the rainfall intensity over Wyong Township during the June 2007 long weekend flood event was recorded to be up to a 1 in 100 year Average Re-occurrence Interval (ARI). This supports the Section 149 Certificate notation identifying Lots 1-4 Sec 7 DP 3136 as being affected by the 1% AEP.

While the implications of flooding on the design of proposed future uses are more appropriately dealt with during the development application stage, the identification of flood affectation across Lots 1-4 Sec 7 DP 3136 triggers Section 117 Ministerial Direction No. 15 – Flood Prone Land and is discussed in Attachment 10.

Cultural

As outlined within the Council Report dated 23 August 2006, a 'time capsule' is located on the south western corner of the Memorial Hall site. The time capsule was placed by the Rotary Associations of Gosford and Wyong at the time of the Australian Bicentenary and is due to be opened in 2088. The management of this time capsule and its cultural significance to the community will need to be considered in future development on the Memorial Hall site.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

Amendments to Schedule 1 - Heritage Items

New Listings under Schedule 1 – Heritage Items

a Bulk Store Building, Ruttleys Road, Mannering Park

Background

An application has been received to prepare a draft LEP that aims to list the Bulk Store Building located on Lot 11 DP 1091396, Ruttleys Road, Mannering Park as a Heritage Item of Local Significance under *Wyang LEP 1991*. The application followed a ruling in the Land and Environment Court regarding certain activities on the site.

While Consent Order No. 40869 required the applicant to lodge a development application seeking consent for certain development on Lot 11 DP 1091396, the Court ruled that a Heritage Assessment in relation to the Bulk Store Building be prepared and submitted to Council.

A Preliminary Heritage Assessment prepared by Godden Mackay Logan Pty Ltd was submitted to Council in support of the rezoning application. The Assessment was referred to Colin Brady, an independent heritage consultant for his review. The review of the Heritage Assessment concluded that the application for the listing of the Bulk Store Building as a Heritage Item of Local Significance under Schedule 1 of *Wyang LEP 1991* had merit.

In accordance with the Court Order, it is recommended Council commence the preparation of a draft LEP in respect of the Bulk Store Building located on Lot 11 DP 1091396, Ruttleys Road, Mannering Park.

Attachment 5 illustrates the location of Lot 11 DP 1091396.

Relevant Issues

Land and Environment Consent Order

As discussed, the application to list the Bulk Store Building as a heritage item of local environmental significance resulted from a ruling in the Land and Environment Court. In addition to requiring the applicant to lodge a heritage application assessing the heritage of the Bulk Store Building, Consent Order No. 40869 required a development application to be lodged seeking consent for the use of the subject land for the purposes of manufacture of frames and trusses, building material store and associated office, sales and amenities; and the construction of a new accessway from Ruttleys Road. A development application was lodged with Council on 22 February 2007.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

Traffic, Access and Transport

As discussed, the applicant is required to construct a new accessway for the upgrading of the existing access from Ruttleys Road under Consent Order No. 40869. The location of the accessway is to be determined by a traffic report from a suitably qualified engineer.

Bushfire Hazard

Lot 11 DP 1091386 has been identified under Section 146 of the *EP&A Act, 1979* as Bushfire Prone Land, namely Category 1 Vegetation and buffer zone. Accordingly the rezoning application and the development application for the proposed listing of the Bulk Store Building under Schedule 1 of *Wyong LEP 1991* must have regard for the document *Planning for Bushfire Protection 2006*. The identification of Bushfire Prone Land across the subject site triggers Section 117 Ministerial Direction No. 19 – Planning for Bushfire Protection and is discussed in Attachment 10.

Having consideration for the identification of Bushfire Prone Land across Lot 11 DP 1091396, the Land and Environment Court ruled that the applicant 'is to carry out works so as to maintain the land to the performance standard of an Inner Protection Area (IPA) defined by the *Planning for Bushfire Protection* document. The Consent Order further stipulated that maintenance works must be carried out biannually for so long as the land is used for any approved use.

Heritage Value

As discussed a preliminary Heritage Assessment was prepared by Godden Mackay Logan Pty Ltd to assess the heritage significance of the Bulk Store Building located on Lot 11 DP 1091396. The report incorporates the relevant processes of *The Burra Charter* and has regard for the specific values and individual historic sites and areas. The assessment of the Bulk Store Building was undertaken in accordance with the guidelines for *Assessing Heritage Significance, 2001*.

The Assessment generally concluded that the 'Bulk Store Building is significant locally as a representative example of a large utilitarian industrial building of the early 20th century; a further discussion of its significance is outlined below.

i Criteria A - Historical Significance:

Given that the Bulk Store building is previously associated with the Wye Colliery, which was the third-state owned coal mine in NSW, the facility has local significance. The Bulk Store Building has been further identified as a relic of the era of state-ownership of electrical generation facilities and the associated operation of coal mines to supply these facilities.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

ii Criteria B - Associative Significance:

While the preliminary Heritage Assessment could not appropriately assess the association of the Bulk Store Building with a person or group of persons of significance, the structure of the facility is comparable with the design of the Dorman Long Harbour Bridge Workshops.

While the review of the preliminary Heritage Assessment has confirmed that the Bulk Store Building located on Lot 11 DP 1091396 is not the actual workshops built and utilised during the construction of the Sydney Harbour Bridge, it was considered that the facility had structural heritage significance.

iii Criteria C - Aesthetic Significance:

The preliminary Heritage Assessment concluded that the Bulk Store Building does not demonstrate any aesthetic, creative or technical achievement.

iv Criteria D - Social Significance:

The preliminary Heritage Assessment concluded that the Bulk Store Building does not demonstrate any strong or special association with a particular community or cultural group within NSW.

v Criteria E - Research Potential:

The preliminary Heritage Assessment concluded that the Bulk Store Building does not have the potential to yield information that will contribute to an understanding of the cultural or natural history of NSW.

vi Criteria F - Rarity:

The preliminary Heritage Assessment concluded that the Bulk Store Building is an unusual building within its local area, as the 'riveted-steel structural elements pre-date most of the physical settlement and industrial development of this region.' Furthermore, the facility illustrates a technology which has been superseded by the time that most of the power stations and coal mines in this area were being constructed.

vii Criteria G - Representative:

The Heritage Assessment concluded that the Bulk Store Building is significant locally as a representative example of a riveted steel building structure of the early 20th century.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

In addition, the preliminary Heritage Assessment states that the 'Bulk Store Building is significant locally as a representative example of a colliery workshop building, in its general arrangement, size, extended craneways and its physical relationship to the colliery.'

Conservation Management Plan (CMP)

Having consideration for the preliminary Heritage Assessment and the independent review, which have both concluded that the facility has local heritage significance; this Bulk Store Building component has been included within LEP Bundle 2. As discussed within the Council Policy and Strategic Implications section of this report, a CMP is required to be prepared in accordance with the guidelines published by the NSW Heritage Office to ensure the appropriate conservation of the Bulk Store Building and that the existing uses will not adversely affect the facility's heritage significance.

The CMP is required to consider the current uses on the site, including the manufacture of frames and trusses, timber mill, building material store and associated office, sales and amenities. As these uses involve varying degrees of adaptation to the buildings and site, and as such, have not yet been assessed as to their impact on the heritage significance of the complex, the CMP will discuss the range of appropriate adaptive re-uses that should be considered in the future viability to provide economic social dividends from the preservation of the heritage structures. In addition, the CMP will be required address the natural heritage of the site.

b The Entrance Ocean Pools, Ocean Parade, The Entrance**Background**

Constructed in 1938 and 1965, The Entrance Ocean Pools are the only ocean pools on the Central Coast. Including the complex of three pools and their associated structures, the facility 'demonstrates the evolution of the ocean baths in the twentieth century.' (NSW State Heritage Register).

Following its assessment under the *NSW State Heritage Act, 1977*, The Entrance Ocean pools were listed on the NSW State Heritage Register on 22 August 2003. However, despite its formal recognition, the facility is not listed under *Wyang LEP 1991*. Council has therefore included within LEP Bundle 2, the amendment of Schedule 1 of *Wyang LEP 1991* so as to list The Entrance Ocean Pools as a Heritage Item of State Significance.

The location of the Entrance Ocean Pools is illustrated in Attachment 6.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

Relevant Issues

Heritage Significance

The Entrance Ocean Pools, located along Ocean Parade, The Entrance, have been assessed against the seven criteria of the *NSW State Heritage Act, 1977*. Following its assessment, it was determined that The Entrance Ocean Pools had State Heritage Significance. A discussion of its significance is outlined below.

i Criteria A - Historical Significance:

The facility is historically state significant because it demonstrates the 'evolution of a simple rock pool known to Aboriginal people as a natural fish trap to a complex of ocean baths.

ii Criteria B - Associative Significance:

The Entrance Ocean Pools are associated with a number of swimming clubs, including The Entrance Amateur Swimming Club, which was established in 1953 and the 'Tuggerah Tuffs' a winter swimming club, which was established in 1967. In addition, the 'site of the baths is associated with Aboriginal people of the area who recognise the rock shelf as a natural fish trap.'

iii Criteria C - Aesthetic Significance:

The assessment of the significance of The Entrance Ocean Pools concluded that the facility has high aesthetic value as an oceanic landmark, due to their siting at the southern end of The Entrance's main surf beach.

iv Criteria D - Social Significance:

The Entrance Ocean Pools have been a focal point for recreation, swimming and education and competitive swimming since 1938. Given that the facility provides evidence of the popularity of swimming as a competitive and recreational spot in Australia, it is considered that The Entrance Ocean Pools have social significance.

v Criteria E - Research Potential:

The assessment considered that The Entrance Ocean Pools have research significance for 'their ability to demonstrate both documentary and physical evidence of the technical evolution of ocean baths in the 20th century.'

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

vi Criteria F - Rarity:

Given that The Entrance Ocean Pools are one of only nine ocean pools built on the NSW coast in the 1920s and 1930s, and is the only facility of its type on the Central Coast, it is considered that the facility has heritage value of State significance.

vii Criteria G - Representative:

The Entrance Ocean Pools 'reflect a type of community facility that are no longer constructed due to problems associated with the aggressive marine environment, public health and safety changes in community expectations.'

c Former Wyong Dairy Co-operative, Alison Road, Wyong

Background

An application has been received to prepare a draft LEP that aims to list the former Wyong Dairy Co-operative located on Lots 31-33 DP 5019, Lots 12-16 DP 255532 and Lot 7 DP 21562, Alison Road, Wyong, as a Heritage Item of Local Significance under *Wyong LEP 1991*. Council formally resolved to prepare a draft LEP in respect of this component on 8 November 2006.

The Department of Planning (DoP) was subsequently notified under Section 54 (s54) of the *EP&A Act, 1979* and the draft plan was referred to the LEP Review Panel for consideration. In correspondence dated 15 May 2007, the Department recommended that 'Council include the proposed amendment in its next 'bundled' or 'housekeeping' LEP.' DoP also requested Council examine the appropriate zoning of the land, which is discussed later in this report in the Statutory Requirements Section.

Given the nature of the draft LEP, the listing of the former Wyong Dairy Co-operative as a Heritage Item of Local Significance is considered appropriate. The location and extent of the former Wyong Dairy Co-operative is illustrated in Attachment 7.

Relevant Issues

Given that the listing of the former Wyong Dairy Co-operative was considered at Council's meeting on 8 November 2006, no additional issues require consideration under this report. The issue of appropriate zonings across the former Wyong Dairy Co-operative site raised by DoP has been explored and discussed in the Statutory Requirements Section of this report.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

Reclassification of Heritage Items of State Significance

a *Norah Head Lightstation Precinct, Bush Street, Norah Head*

Background

Completed in 1905, the Norah Head Lightstation Precinct includes the Norah Head Lighthouse, its associated ancillary structures and surrounds. Recognised as an 'important element' in the establishment of navigation aids, the Norah Head Lighthouse was the 'last colonial built Lightstation on the central NSW coast.' (NSW State Heritage Register)

In 2006, the Norah Head Lighthouse Reserve Trust applied for the Norah Head Lightstation Precinct to be listed as an item of environmental heritage on the NSW State Heritage Register. Assessed under the *NSW Heritage Act, 1977*, the NSW Heritage Office considered that the Norah Head Lightstation Precinct has historical and cultural value; spiritual; aesthetic and social significance for the state. The Norah Head Lightstation Precinct was gazetted as an item of state significance on Friday, 13 April 2007.

Following its formal recognition on the NSW State Heritage Register, updating Schedule 1 of *Wyang LEP 1991* so as to list the Norah Head Lightstation Precinct as a Heritage Item of State Significance is considered appropriate and will progress with LEP Bundle 2.

The location and extent of the Lightstation Precinct is illustrated in Attachment 8.

Relevant Issues

Given that the amendment to *Wyang LEP 1991* aims to reclassify the Norah Head Lightstation Precinct to a heritage item of state significance, no additional issues require consideration under this report.

b *St Barnabas Church, Yarramalong Road, Yarramalong*

Background

The *Wyang Shire Council Heritage Inventory* states that St Barnabas Anglican 'church and cemetery have regional historic significance for being the oldest church in the region.' Formerly a Catholic church, St Barnabas 'represents the establishment of the religion in the region and although common, the church and cemetery have regional rarity.'

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

Following its assessment under the *NSW State Heritage Act 1977*, St Barnabas Church was listed on the NSW State Heritage Register on 2 April 1991. While both the church and cemetery are currently listed as a Heritage Item of Regional Significance under *Wyong LEP 1991*, LEP Bundle 2 aims to amend Schedule 1 so as to appropriately recognise the Church as a Heritage Item of State Significance. The listing will be amended to recognise the cemetery as a Heritage Item of Local Significance.

A map illustrating the location of St Barnabas Church is provided as Attachment 9.

Relevant Issues

Given that the amendment to *Wyong LEP 1991* aims to reclassify St Barnabas Church to a heritage item of state significance, no additional issues require consideration under this report.

STATUTORY REQUIREMENTS

Council may, pursuant to Section 54 of the *EP&A Act, 1979* decide to prepare a draft LEP in respect of LEP Bundle 2.

The DoP has advised that the *Instrument of Delegation (February 1997)* which delegated the Director-General's functions under Section 65(1) relating to the public exhibition of the proposed draft LEP and under Section 69, relating to the preparation of a report to the Minister, has been revoked. However, Council does not intend to request a 'Written Authorisation to Exercise Delegation' under Section 65(1) and Section 69 for the following reasons:

- 1 The proposed draft LEP aims to rezone Council owned land, namely Lot 4 DP 659489, Rankens Court, Wyong from 5(a) (Special Uses – Carparking Zone) to 3(a) (Business Centre Zone) to ensure that the zoning of the proposed Performing Arts Centre site is consistent with adjoining lots.
- 2 The proposed draft LEP aims to rezone Council owned land, namely Lots 1-4 Sec 7 DP 3136, Margaret Street, Wyong from 5(a) (Special Uses – Community Purposes Zone) to 3(a) (Business Centre Zone) to facilitate the disposal of the Memorial Hall.
- 3 The proposed draft LEP aims to list The Entrance Ocean Pools as a Heritage Item of State Significance under Schedule 1 of *Wyong LEP 1991*. The Entrance Ocean Pools are currently controlled by Council.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

It is therefore considered appropriate that DoP certify the draft plan for public exhibition and prepare the final report to the Minister recommending the making of the plan.

Section 117 Ministerial Directions

Section 117 (s117) of the *EP&A Act, 1979* requires Council to consider various directions issued by DoP. The proposed draft LEP is considered to be generally consistent with the s117 Ministerial Directions, with those directions requiring more detailed discussion being outlined within Attachment 10.

State Environmental Planning Policies

The components of LEP Bundle 2 have been considered in terms of all relevant State Environmental Planning Policies (SEPPs) and draft SEPPs, and are considered to be generally consistent with all relevant policies and plans. Those policies requiring detailed discussion are outlined within Attachment 10.

Regional Environmental Plans

The components of LEP Bundle 2 have been considered in terms of all relevant Regional Environmental Plans (REPs) and draft REPs and are considered to be generally consistent with all relevant policies and plans. Those plans requiring more detailed discussion are outlined within Attachment 10.

Heritage Components

While the following discusses each heritage component of LEP Bundle 2 with respect to *Wyong LEP 1991*, where appropriate, a discussion of other Council policies and plans is provided within Attachment 4.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

New Listings under Schedule 1 – Heritage Items

a *Bulk Store Building, Ruttleys Road, Mannering Park*

Lot 11 DP 1091396, Ruttleys Road, Mannering Park is currently zoned 5(a) (Special Uses – Power Station Zone). While the 5(a) (Special Uses – Power Station Zone) does not prohibit development under the provisions of *Wyong LEP 1991*, development is generally required to remain consistent with the objectives of the zone, that is:

- “(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 Council, provided that:*
 - (1) 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*
 - (2) The other development does not adversely affect the current or future usefulness of the land for the purpose of those facilities or services.”*

Lot 11 DP 1091396 is currently utilised for the purposes of the manufacture of frames and trusses, timber mill, building material store and associated office, sales and amenities. Development consent has not been issued for the undertaking of these activities on the site.

The listing of the Bulk Store Building as a Heritage Item of Local Significance under Schedule 1 would enable the granting of development consent for a wide range of uses under the provisions of *Wyong LEP 1991*, Clause 36 Conservation Incentives.

Clause 36 Conservation Incentives states:

- “(1) That Council may grant consent to the use, for any purpose, of a building that is a heritage item or of the land which the building is erected, even though the use would otherwise be prohibited by this plan, if it is satisfied that:*
 - (a) The proposed use would not adversely affect the heritage significance of the item and would have little or no adverse effect on the amenity of the area; and*
 - (b) The conservation of the building depends on the granting of the consent.”*

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

In order to ensure that the conservation of the Bulk Store Building would be appropriately managed and that the existing uses would not adversely affect its heritage significance, a Conversation Management Plan (CMP) is required to be prepared in accordance with the guidelines published by the NSW Heritage Office.

Having consideration for the preliminary Heritage Assessment and Clause 7(1) of *Wyang LEP 1991*, the proposed draft LEP aims to amend Schedule 1 so as list the Bulk Store Building located on Lot 11 DP 1091396, Ruttleys Road, Mannering Park under 'Column 1' and classify the item as 'Local' under Column 2. In addition, given that Bulk Store Building is a new heritage item of local significance, a heritage map in respect of the item will be required to be prepared in accordance with Clause 7(1) of *Wyang LEP 1991*.

b The Entrance Ocean Pools, Ocean Parade, The Entrance

Following its formal recognition on the NSW State Heritage Register, the listing of The Entrance Ocean Pools as heritage item of State Significance has been included under LEP Bundle 2. In accordance with Clause 7(1), *Wyang LEP 1991* will be amended so as to list The Entrance Ocean Pools under Column 1 and classify the item as 'State' under Column 2 of Schedule 1. In addition, given that The Entrance Ocean Pools is a new heritage item of state significance, a heritage map in respect of the item will be required to be prepared.

c Former Wyong Dairy Co-operative, Alison Road, Wyong

As discussed, Council has previously resolved on 8 November 2006 to prepare a draft LEP in respect of the former Wyong Dairy Co-operative.

However, in correspondence dated 15 May 2007, DoP requested that Council 'explore the most appropriate zone for the land that best suits existing and proposed uses of the site and are in keeping with retaining its heritage values.'

Lots 31-33 DP 5019, Lots 12-16 DP 255532 and Lot 7 DP 21462, Alison Road, Wyong are currently zoned 1(c) (Non Urban Constrained Lands Zone). Generally, the 1(c) (Non Urban Constrained Lands Zone) aims to limit the development of land that may be affected by flooding and other constraints and is reinforced by the Clause 18 restriction of development – lot amalgamation provisions.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

As the former Wyong Dairy Co-operative is currently utilised for the purposes of food preparation, woodturning/wood product manufacturing and water bottling, the existing uses do not comply with the provisions of *Wyong LEP 1991*. While rezoning Lots 31-33 DP 5019, Lots 12-15 DP 255532 and Lot 7 DP 21462, Alison Road, Wyong to an industrial zone would ensure that the activities undertaken on the site are permissible; an industrial zone would result in an undesirable increase of the development potential of the site and subsequently may adversely affect the heritage and environmental quality of the land.

Subject to the preparation of a CMP in respect of the former Wyong Dairy Co-operative and its listing under Schedule 1 of *Wyong LEP 1991*, Clause 36 Conservation Incentives would enable the existing uses to comply with the provisions of *Wyong LEP 1991*, whilst ensuring that the appropriate heritage components are retained, documented, interpreted and given a reasonable degree of public access. It is therefore considered that it is appropriate to retain the 1(c) (Non Urban Constrained Lands Zone) on the subject site.

Having consideration for definitions within Clause 7(1) of *Wyong LEP 1991*, the proposed draft LEP aims to amend Schedule 1 so as to list the former Wyong Dairy Co-operative located on Lots 31-33 DP 5019, Lots 12-15 DP 255532 and Lot 7 DP 21462, Alison Road, Wyong under 'Column 1' and classify the item as 'Local' under Column 2. In addition, given that former Wyong Dairy Co-operative is a new heritage item of local significance, a heritage map in respect of the item will be required to be prepared.

Reclassification of Heritage Items to State Significance***a Norah Head Lightstation Precinct, Bush Street, Norah Head***

Norah Head Lighthouse and Building is currently recognised under Schedule 1 of *Wyong LEP 1991* as 'heritage item of regional significance.' Following its recognition on the NSW State Heritage Register and having consideration for Clause 7(1), the draft LEP will amend Schedule 1 of *Wyong LEP 1991* so as to list the Lightstation Precinct under Column 1 and reclassify the item from 'Regional' to 'State' under Column 2.

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (contd)

b St Barnabas Church, Yarramalong Road, Yarramalong

St Barnabas Church and cemetery are currently recognised under Schedule 1 of Wyong LEP 1991 as 'heritage items of regional significance.'

Following the recognition of the Church on the NSW State Heritage Register and having regarding for Clause 7(1), the draft LEP will amend Schedule 1 of *Wyong LEP 1991* so as to reclassify the Church as an item of "State" significance under Column 2.

CONCLUSION

LEP Bundle 2 will facilitate amendments to *Wyong LEP 1991* so as to rezone land in respect of the proposed PAC site and the Memorial Hall site, Wyong and amend Schedule 1 – Heritage Items so as to list the Bulk Store Building, Mannering Park; The Entrance Ocean Pools, The Entrance; and the former Wyong Dairy Co-operative as heritage items of significance; upgrade Norah Head Lightstation Precinct and St Barnabas Anglican Church, Yarramalong to Heritage Items of State significance. Given that these proposals have merit, it is considered that a draft local environmental plan should be prepared.

<i>Attachment 1</i>	<i>LEP Bundle 2 Component Details (3 pages)</i>
<i>Attachment 2</i>	<i>Performing Arts Centre Site Locality Map (1 page)</i>
<i>Attachment 3</i>	<i>Memorial Hall Site Locality Map (1 page)</i>
<i>Attachment 4</i>	<i>Other Council Policy and Plans</i>
<i>Attachment 5</i>	<i>Bulk Store Building Locality Map (1 page)</i>
<i>Attachment 6</i>	<i>The Entrance Ocean Pools Locality Map (1 page)</i>
<i>Attachment 7</i>	<i>Former Wyong Dairy Co-operative Location Map (1 page)</i>
<i>Attachment 8</i>	<i>Norah Head Lightstation Precinct Locality Map (1 page)</i>
<i>Attachment 9</i>	<i>St Barnabas Anglican Church Locality Map (1 page)</i>
<i>Attachment 10</i>	<i>SEPPs, REPs and Section 117 Ministerial Directions (5 pages)</i>

Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 1)**LEP Bundle 2 Component Details****Rezoning Components*****Proposed PAC Site, Rankens Court, Wyong***

Applicant:	Wyong Shire Council
Owner	Wyong Shire Council
Description of Land Proposal	Lot 4 DP 659489, Rankens Court, Wyong Rezone Lot 4 DP 659489, Rankens Court, Wyong to 3(a) (Business Centre Zone) to ensure consistent zonings on the proposed PAC site.
Site Area	2,652m ²
Current Zoning	5(a) (Special Uses – Carparking Zone)
Existing Use	Carparking

Memorial Hall Site, Margaret Street, Wyong

Applicant	Wyong Shire Council
Owner	Wyong Shire Council
Description of Land Proposal	Lots 1-4 Sec 7 DP 3136, Margaret Street, Wyong Rezone Lots 1-4 Sec 7 DP 3136, Margaret Street, Wyong from 5(a) (Special Uses – Community Purposes) to facilitate the disposal of Council's Memorial Hall following transition to the PAC
Site Area	4,047m ²
Current Zoning	5(a) (Special Uses – Community Purposes Zone)
Existing Use	Memorial Hall / Community Purposes

Heritage Components***New Listings under Schedule 1 – Heritage Items******Bulk Store Building, Ruttleys Road, Mannering Park***

Applicant	Eaton & Sons Pty Ltd
Owner	Eaton & Sons Pty Ltd
Description of Land Proposal	Lot 11 DP 1091396, Ruttleys Road, Mannering Park List the Bulk Store Building as a Heritage item of Local Significance under Schedule 1 of Wyong LEP 1991.
Site Area	5.022ha
Current Zoning	5(a) (Special Uses – Power Station Zone)
Existing Use	Industrial Uses

**Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 1)
(contd)**

The Entrance Ocean Pools, The Entrance

Applicant	Wyong Shire Council
Owner	Department of Lands
Description of Land	Lot 366 DP 755263, Ocean Parade, The Entrance
Proposal	List the Entrance Ocean Pools, located on Lot 366 DP 755263, Ocean Parade, The Entrance as an Heritage Item of State Significance under Schedule 1 of <i>Wyong LEP 1991</i> .
Site Area	546.3m ²
Current Zoning	6(a) (Open Space and Recreation Zone)
Existing Use	Sports and recreation

Former Wyong Dairy Co-operative, Alison Road, Wyong

Applicant	Gilbert & Tobin Lawyers
Owner	Bitova Pty Ltd
Description of Land	Lots 31-33 DP 5019, Lots 12-16 DP 255532 and Lot 7 DP 21562, Alison Road, Wyong
Proposal	List the Former Wyong Dairy Co-operative as a Heritage Item of Local Significance under Schedule 1 of <i>Wyong LEP 1991</i> .
Site Area	1.5ha
Current Zoning	1(c) (Non Urban Constrained Lands Zone)
Existing Use	Industrial Uses

Reclassification to Heritage Items of State Significance

Norah Head Lightstation Precinct, Norah Head

Applicant	Wyong Shire Council
Owner	Department of Lands
Description of Land	Lots 1-4 DP 847750, Bush Street, Norah Head
Proposal	Update Schedule 1 of <i>Wyong LEP 1991</i> in order to recognise the Norah Head Lightstation Precinct as an item of State Environmental Heritage.
Site Area	546.3m ²
Current Zoning	6(a) (Open Space and Recreation Zone)
Existing Use	Open Space, Recreation and Tourism

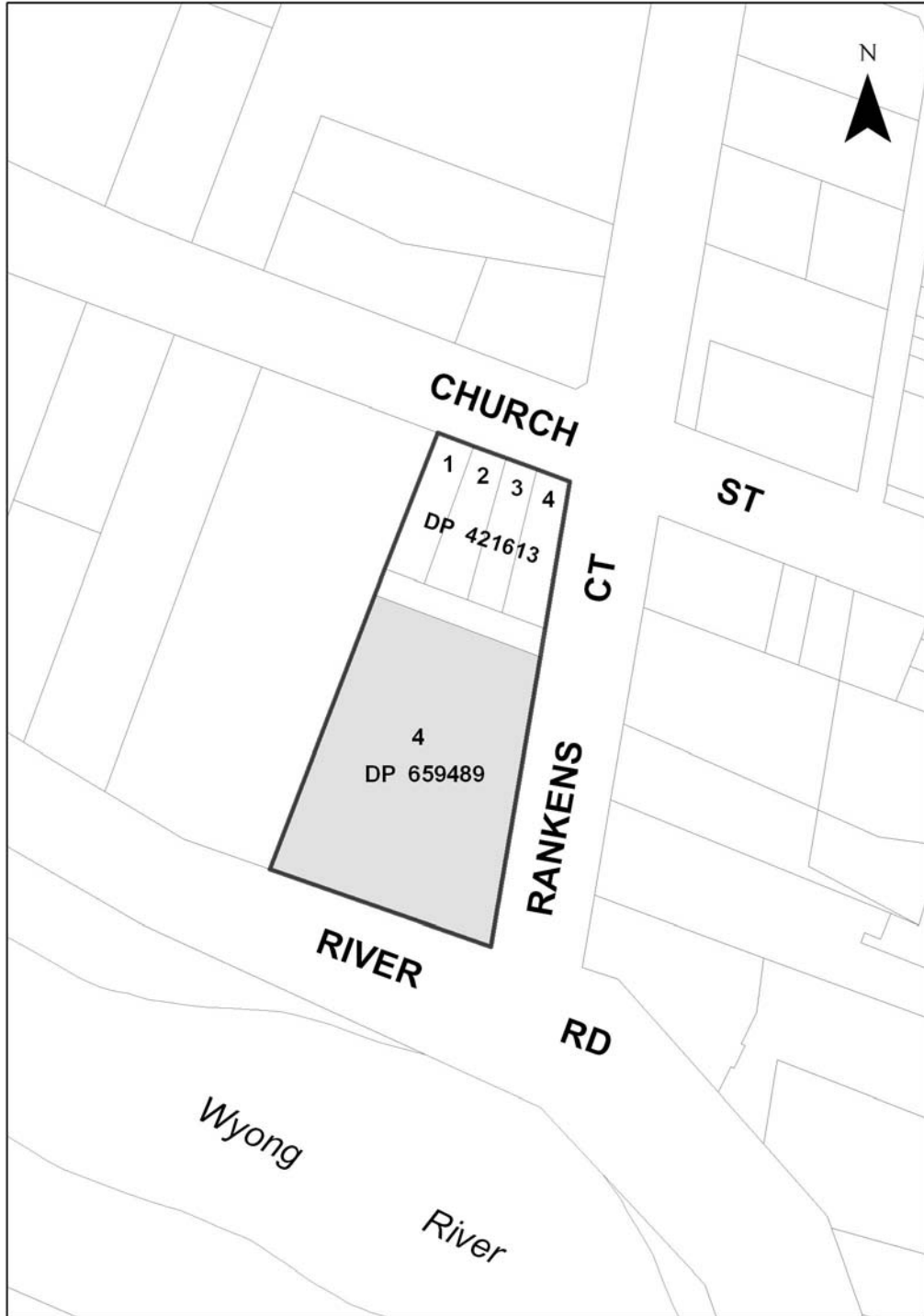
**Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 1)
(contd)**

St Barnabas Anglican Church, Yarramalong

Applicant	Wyong Shire Council
Owner	Wyong Shire Council
Description of Land	Lot 12 DP 1021292, Yarramalong Road, Yarramalong.
Proposal	Update Schedule 1 of <i>Wyong LEP 1991</i> in order to recognise St Barnabas Anglican Church, Yarramalong as an item of State Environmental Heritage.
Site Area	6,096m ²
Current Zoning	5(a) (Special Uses – Church Zone)
Existing Use	Anglican Church

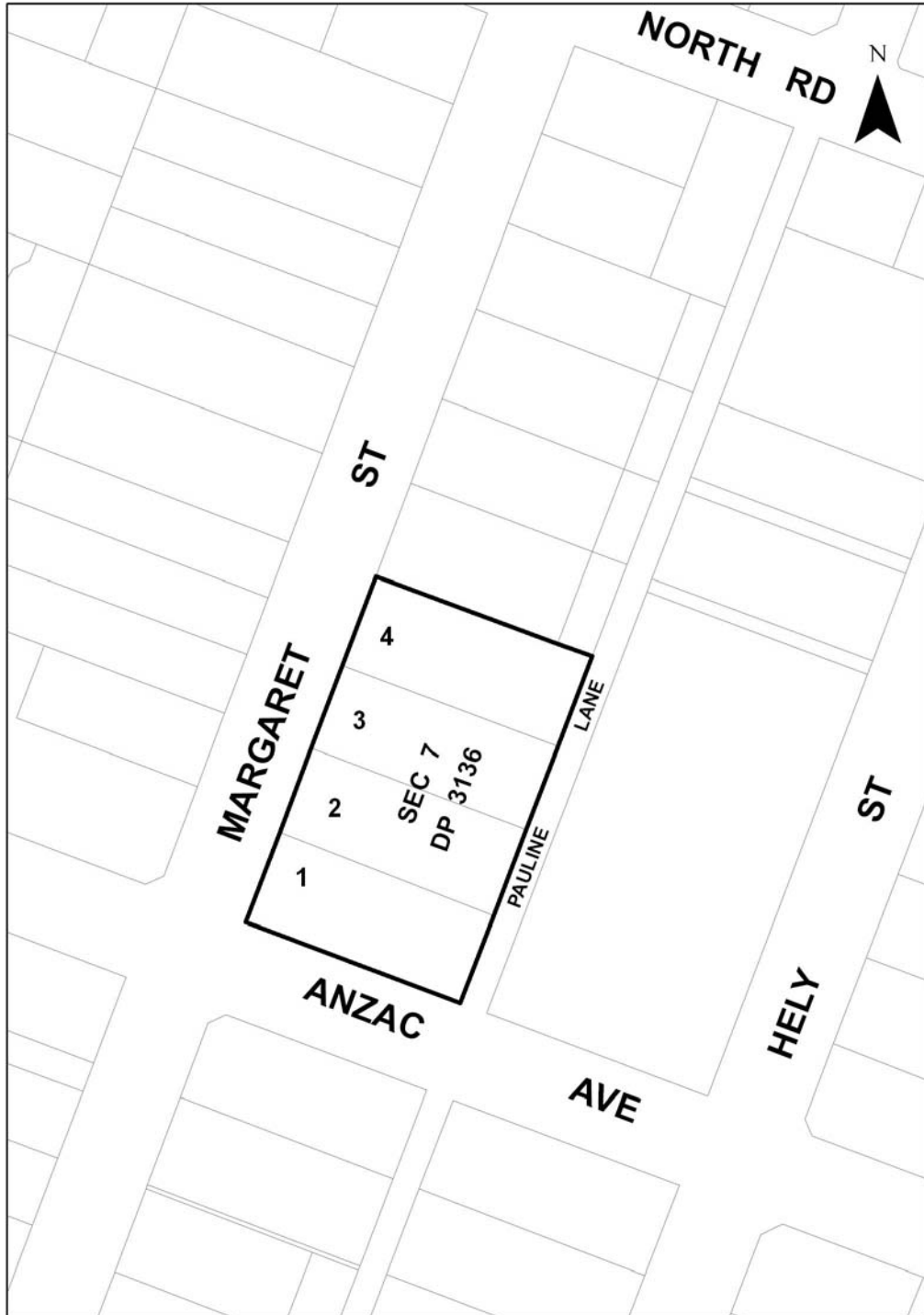
Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 2)

Performing Arts Centre Site Locality Map



Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 3)

Memorial Hall Site Locality Map



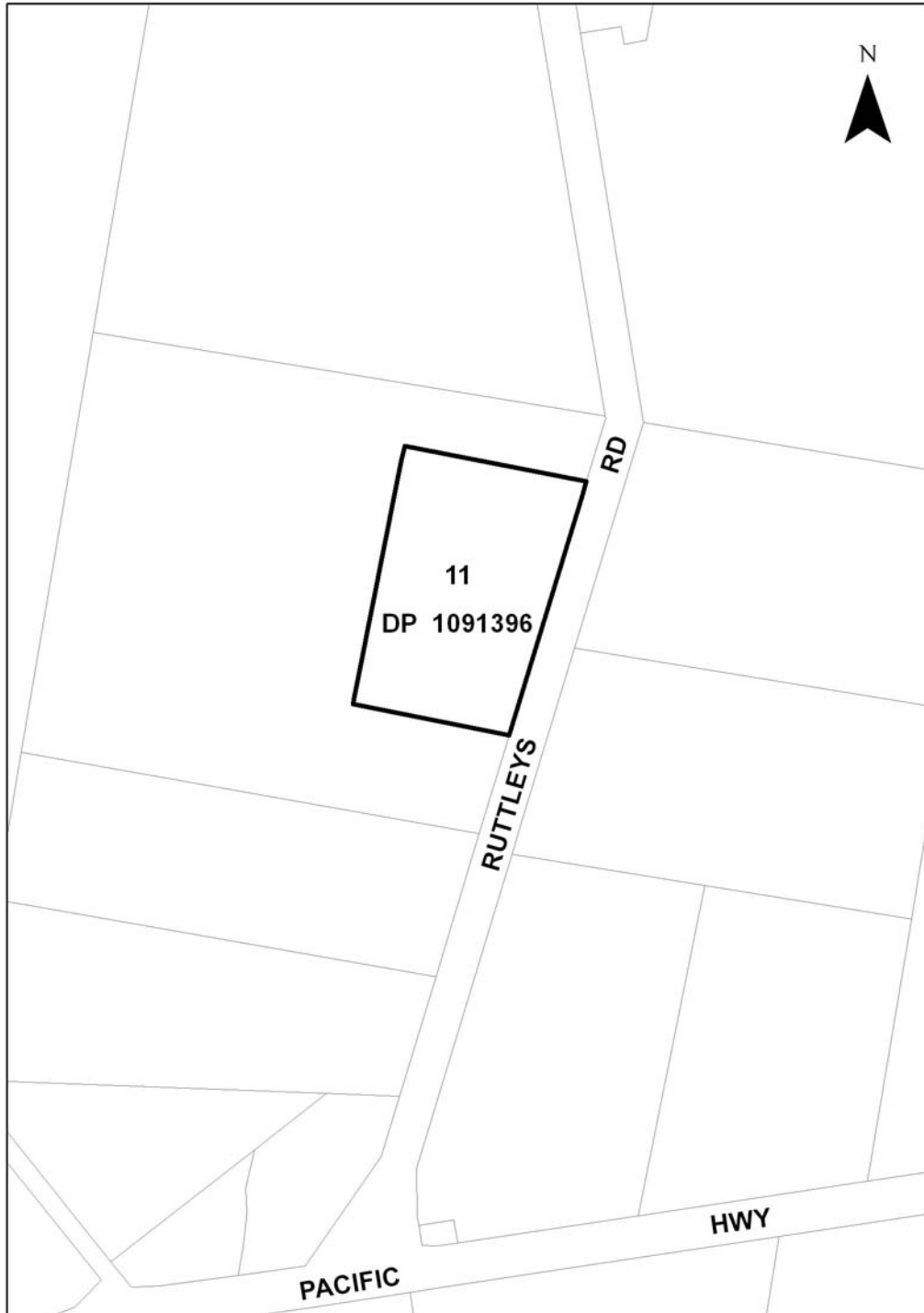
Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 4)

Other Council Policy and Plans

Policy	Comment
Council Plans	
DCP 2005 – Development Controls for Wyong Shire	
Draft Wyong-Tuggerah Planning Strategy	
<ul style="list-style-type: none"> ▪ <i>The Draft Wyong-Tuggerah Planning Strategy</i> outlines Council's and the community's visions for the Wyong/Tuggerah area with a range of actions to achieve these visions. ▪ In terms of developing the area's tourism, cultural and heritage values, the <i>draft Wyong-Tuggerah Planning Strategy</i> recommends implementing a cultural program that includes '... a performing arts centre.' ▪ In addition, the draft Strategy aims to 'build upon the existing cultural and heritage assets of the Wyong Town Centre' to enable it develop as the 'hub' of cultural activity in Wyong Shire. 	<p>Given that the proposed PAC, which aims to provide important cultural facilities within Wyong and that the draft LEP aims to facilitate the provision of a PAC, the draft plan is considered to be consistent with the <i>draft Wyong-Tuggerah Planning Strategy</i>.</p> <p>In addition, rezoning of the Memorial Hall Site to 3(a) (Business Centre Zone) will enable the redevelopment of the Memorial Hall site and will help revitalise the Wyong Town Centre.</p>
A Cultural Plan for Wyong Shire 2005	
<ul style="list-style-type: none"> ▪ <i>A Cultural Plan for Wyong Shire</i> was developed to 'provide for an immediate and long-term direction for culture and the arts for Wyong Shire' and recognises the provision of a PAC in Wyong as Council's highest priority. 	<p>Given that a study commissioned to investigate the feasibility of a centre and the relative needs for PAC in Wyong and that a brief for the design of the complex is currently being prepared by Future Planning Staff, the proposed draft LEP is consistent with the aims and objectives of <i>A Cultural Plan for Wyong Shire 2005</i>.</p>

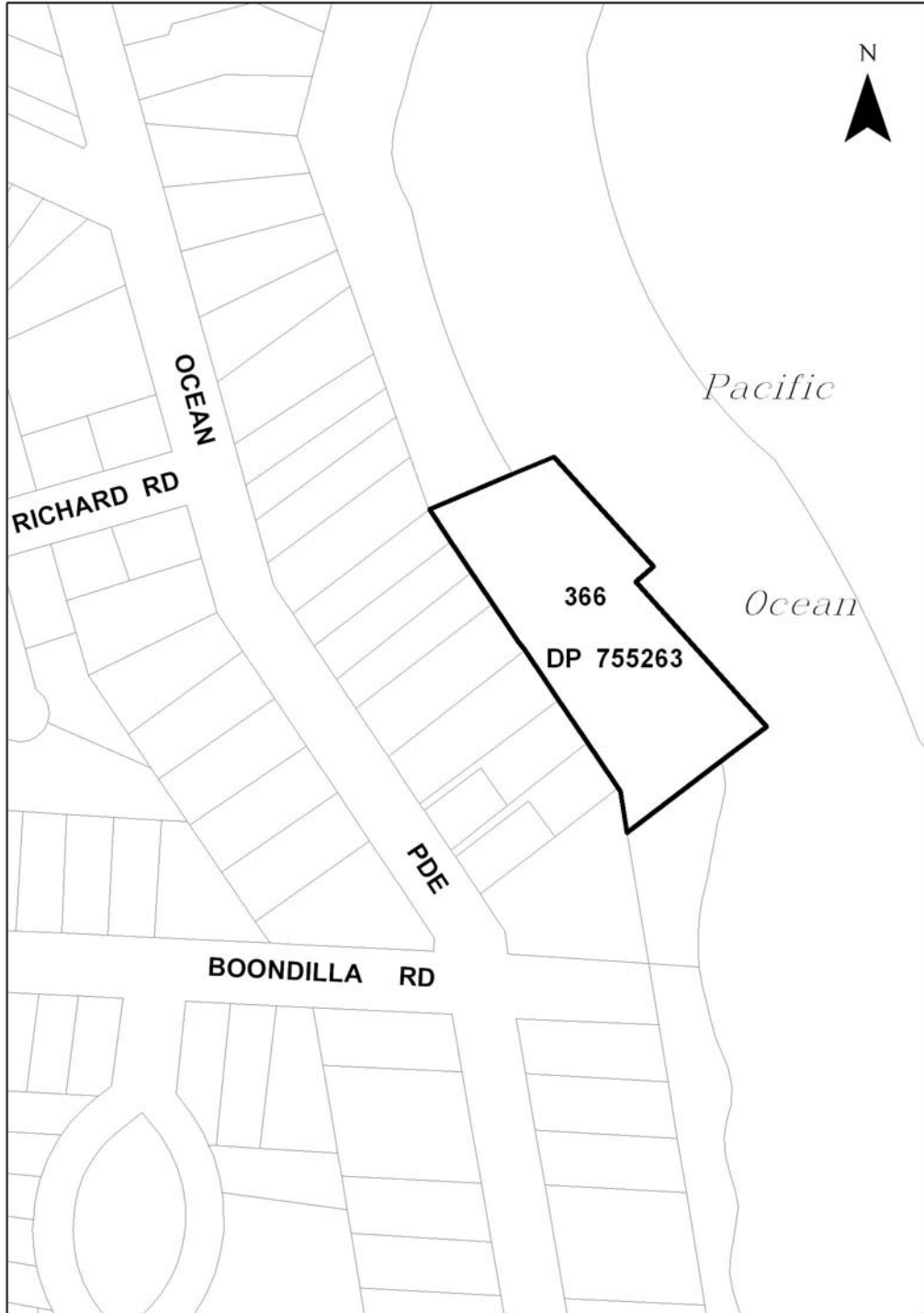
Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 5)

Bulky Store Building Locality Map



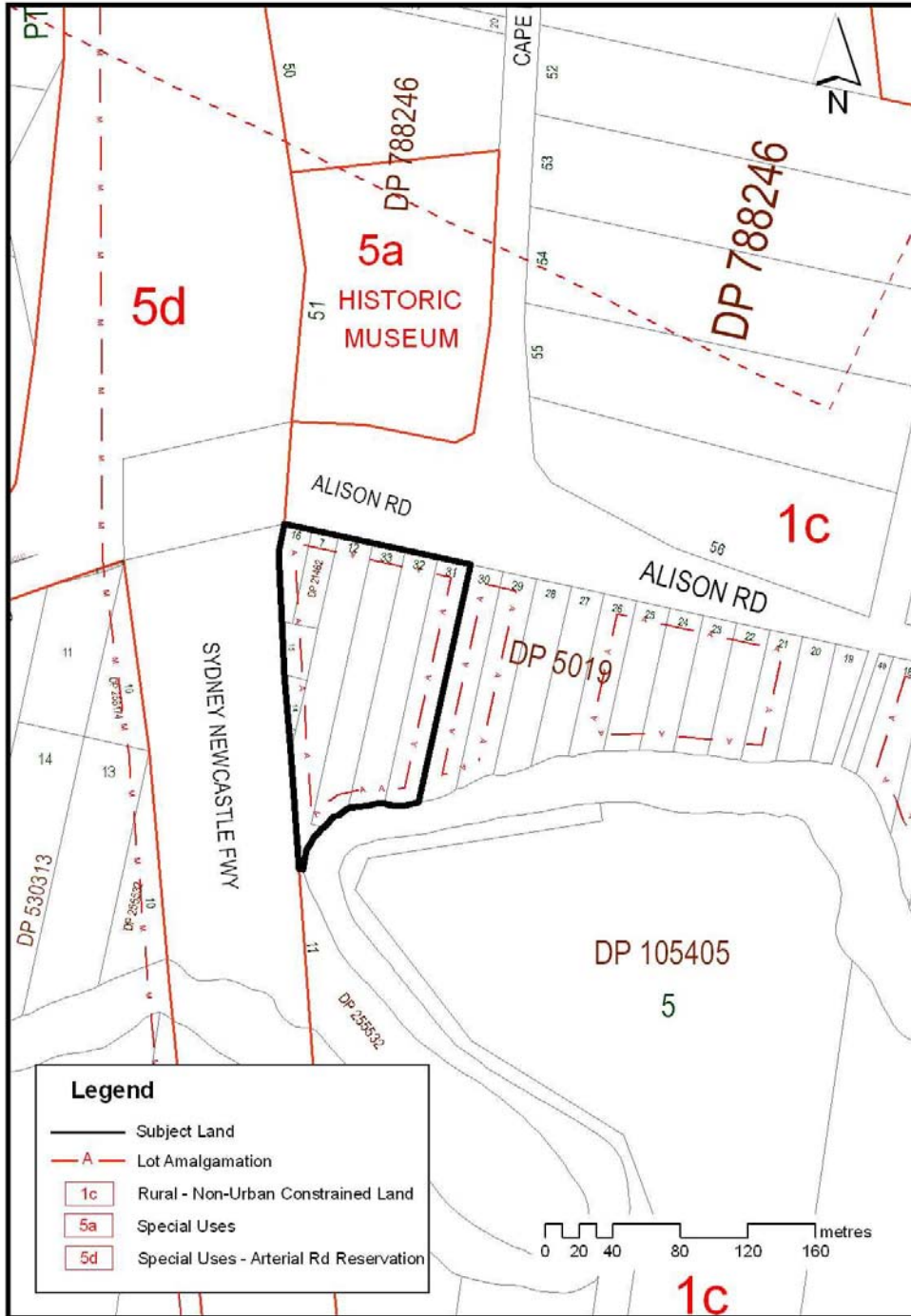
Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 6)

The Entrance Ocean Pools Locality Map



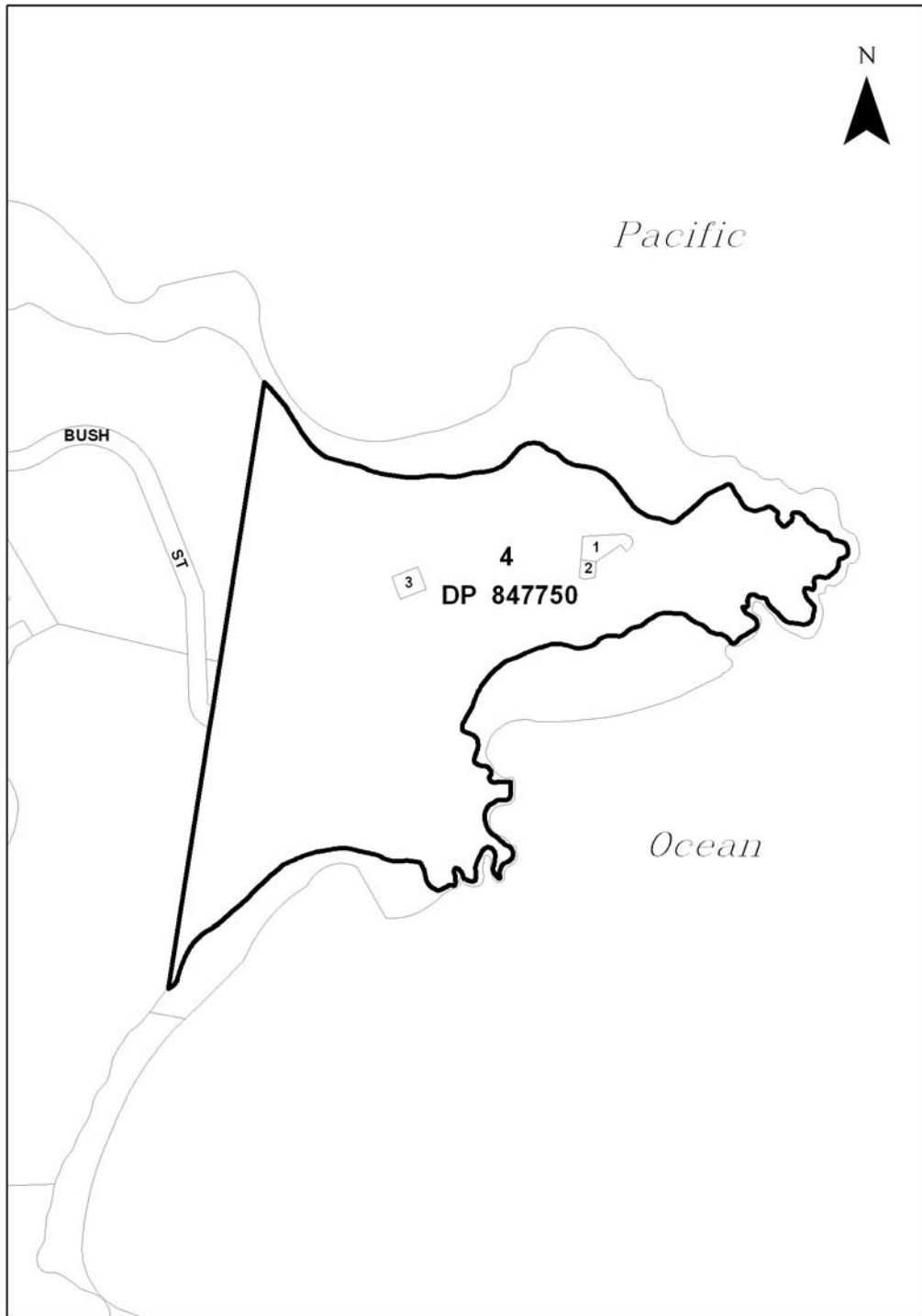
Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 7)

Former Wyong Dairy Co-operative Locality Map



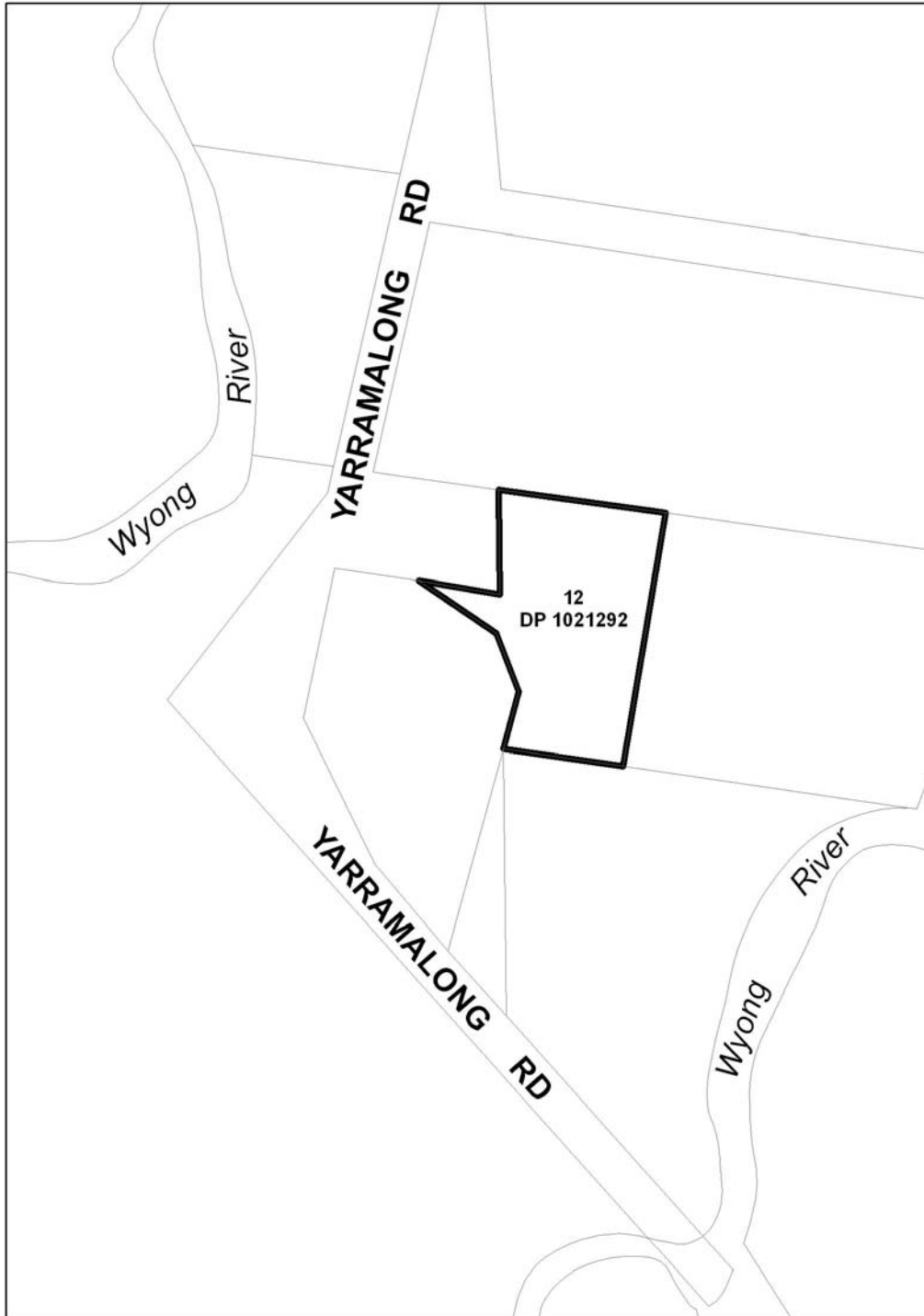
Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 8)

Norah Head Lightstation Precinct Locality Map



Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 9)

St Barnabas Anglican Church Locality Map



Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 10)

SEPPs, REPs and Section 117 Ministerial Directions

Policy	Comment
S117 Directions	
Direction No. 2 – Approval, Concurrence and Consultation	
<ul style="list-style-type: none"> ▪ <i>Direction No. 2 Approval, Concurrence and Consultation</i> aims to ensure that State agencies are appropriately involved in consultation and concurrence roles. ▪ Direction No. 2 states that a draft LEP must not contain provisions requiring concurrence, consultation or referral of a Minister of public authority. 	<p>The proposed draft LEP will not contain any provision requiring concurrence, consultation or the referral of a Minister or public authority.</p> <p>The proposed draft LEP is therefore considered consistent with Direction No. 2 Approval, Concurrence and Consultation.</p>
Direction No. 3 - Business Centre Zones	
<ul style="list-style-type: none"> ▪ <i>Direction No. 3 Business Centre Zones</i> aims to ensure the economic and efficient development of existing business areas and centres and related public services. ▪ Direction No. 3 states that a draft LEP must not create, remove or alter provisions applying to land zoned for Business that will result in a reduction of potential floor space area. 	<p>Direction No 3 – Business Centre Zones applies to PAC and Memorial Hall rezoning components under the proposed draft LEP.</p> <p>Given that the proposed draft LEP will not result in a reduction of potential floor space area on either of the sites, the proposed draft LEP is considered to be consistent with Direction No. 3 – Business Centre Zones.</p>
Direction No. 4 – Central Coast	
<ul style="list-style-type: none"> ▪ <i>Direction No. 4 Central Coast</i> aims to ensure that land is zoned in accordance with the appropriate regional strategy. ▪ Direction No. 4 states that that a draft LEP must be consistent with the <i>Gosford-Wyong Structure Plan (1977)</i> except as amended by the Sydney Regional Environmental Plan No. 6 – Gosford Coastal Areas. ▪ A draft LEP may inconsistent with this direction if the rezoning is, in the opinion of the Director-General, of a minor significance. 	<p>While the proposed PAC and Memorial Hall components are not consistent with the <i>Gosford-Wyong Structure Plan (1977)</i>, the components are considered consistent with the <i>draft Central Coast Regional Strategy (CCRS)</i>.</p> <p>Amending Wyong LEP 1991 to enable the construction of a PAC will achieve the aims of the <i>draft Strategy</i> in terms of providing cultural facilities within the Wyong-Tuggerah Major Centre and will help facilitate the activation of the Wyong River foreshore.</p> <p>In addition, rezoning the Memorial Hall site from 5(a) (Special Uses Zone) to 3(a) (Business Centre Zone) will achieve the aims of the <i>draft CCRS</i> by strengthening the commercial function of Wyong and increasing town-based commercial activity.</p>

**Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 10)
(contd)**

Direction No. 4 – Central Coast	
	<p>In terms amending Schedule 1 of <i>Wyong LEP 1991</i> so as to list or reclassify heritage items of significance, it is considered by Council, that the draft LEP is of relatively minor significance.</p> <p>Given the above, it is therefore considered that the proposed draft LEP is consistent with Direction No. 4 – Central Coast.</p>
Direction No. 6- Coastal Protection	
<ul style="list-style-type: none"> ▪ <i>Direction No. 6 – Coastal Protection</i> aims to protect the ecological, scenic and leisure value of the coast for the people of NSW. ▪ Direction No. 6 states that a draft LEP shall not alter, create or remove existing zonings. ▪ A draft LEP may be inconsistent with this direction if the land has been identified in a strategy prepared by the council and approved by the Director-General; the rezoning is in accordance with the relevant Regional Strategy prepared by the Department or the rezoning is, in the opinion of the Director-General, of a minor significance 	<p>Given that the proposed draft LEP aims to rezone the PAC site to 3(a) (Business Centre Zone), the draft plan is considered inconsistent with this direction.</p> <p>However, the PAC is recognised within <i>draft Wyong-Tuggerah Planning Strategy</i>. While not formally approved by the Director-General, the <i>draft Strategy</i> has been prepared by Council in consultation with the Department of Planning.</p> <p>In addition, by providing cultural facilities within the Wyong-Tuggerah Major Centre and facilitating the activation of the Wyong River foreshore, the PAC achieves the objectives of the <i>draft CCRS</i>.</p>
Direction No. 9- Conservation and Management of Environmental and Indigenous Heritage	
<ul style="list-style-type: none"> ▪ <i>Direction No. 9 – Conservation and Management of Environmental and Indigenous Heritage</i> aims to conserve items, places and precincts of environmental heritage. ▪ When preparing a draft LEP that applies to an item of heritage significance, a draft LEP shall contain provisions to facilitate the conservation of that item of heritage significance. 	<p>Given that the proposed draft LEP aims to amend Schedule 1 of <i>Wyong LEP 1991</i> so as to list or reclassify heritage items of significance, Direction No. 9 – Conservation and Management of Environmental and Indigenous Heritage applies to the proposed draft LEP.</p> <p>Clauses 32 and 35 of <i>Wyong LEP 1991</i> aims to protect and conserve items of heritage significance by considering the extent to which potential development would affect the heritage significance of the item.</p> <p>It is therefore considered that the proposed draft LEP is consistent with Direction No. 9 Conservation and Management of Environmental and Indigenous Heritage.</p>

**Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 10)
(contd)**

Direction No. 15 – Flood Prone Land	
<ul style="list-style-type: none"> ▪ <i>Direction No. 15 – Flood Prone Land</i> aims to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. ▪ A draft LEP may inconsistent with this direction if Council can satisfy the Director-General that the rezoning is of minor significance. 	<p>Direction No. 15 – Flood Prone Land applies to the proposed draft LEP, as the 1:100 year flood level affects the southern extent of the proposed PAC site.</p> <p>While the warning period for flood conditions is sufficient for the timely evacuation of the proposed centre, the design of the PAC should have consideration for this issue. It has previously been recommended that a design and/or flood management plan be prepared and submitted to Council in support of the development application for the centre.</p> <p>Council requests the Director-General to have consideration for the proposal and consider the draft LEP to be of relatively minor significance.</p>
Direction No. 17 – Integrating Land Use and Transport	
<ul style="list-style-type: none"> ▪ <i>Direction No. 17 Integration Land Use and Transport</i> aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve nominated objectives. ▪ Direction No. 17 applies when a Council prepares a draft LEP that creates, removes or alters a provision relating to urban land, such as for residential, business or industrial purposes. 	<p>Direction No. 17 applies to the proposed draft LEP in terms of the Performing Arts Centre and Memorial Hall components.</p> <p>The design of the PAC and future use of the Memorial Hall site would need to consider the Integrating Land Use and Transport and The Right Places for Business and Services. This issue is more appropriately dealt with at the development application stage.</p>
Direction No. 19 – Planning for Bushfire Protection	
<ul style="list-style-type: none"> ▪ <i>Direction No. 19 – Planning for Bushfire Protection</i> aims to protect life, property and the environment from bush fire hazards. ▪ Direction No. 19 requires Council to consult with the NSW Rural Fire Service under Section 62 of the Act. 	<p>Given that the southern portion of the PAC site has been identified as Bushfire Prone Land Buffer Zone, Direction No. 19 applies to the proposed draft LEP.</p> <p>Council has had consideration for the document <i>Planning for Bushfire Protection 2006</i> and will consult with the NSW RFS under Section 62 of the <i>EP&A Act, 1979</i>.</p>

**Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 10)
(contd)**

Direction No. 25 – Site Specific Zoning	
<ul style="list-style-type: none"> ▪ <i>Direction No. 25 Site Specific Zoning</i> aims to make the range of uses permissible in zones as flexible as possible. <p>Direction No. 25 applies when a Council prepares any draft Local Environmental Plan to allow a particular development proposal to be carried out.</p> <p>Direction No. 25 states that were a draft LEP is prepared in order to allow a particular development proposal to be carried out it rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone.</p>	<p>Direction No. 25 applies to the Performing Arts Centre and Memorial Hall components of the proposed draft LEP.</p> <p>The proposed draft LEP aims to rezone Lot 4 DP 659489, Rankens Court, Wyong and Lots 1-4 Sec 7 DP 3136, Margaret Avenue, Wyong to 3(a) (Business Centre Zone). The 3(a) (Business Centre Zone) is an existing zone within Wyong LEP 1991. The proposed draft LEP will not impose any development standards or requirements in addition those already contained in the 3(a) (Business Centre Zone).</p> <p>It is therefore considered that the proposed draft LEP is consistent with Direction No. 25 Site Specific Zoning.</p>
State Environmental Planning Policies (SEPPs)	
SEPP 71 Coastal Protection	
<ul style="list-style-type: none"> ▪ Amongst others, SEPP 71 aims to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area. ▪ When preparing a draft LEP Council must have regard for the considerations outlined in Clause 8 of the SEPP. 	<ul style="list-style-type: none"> ▪ SEPP No. 71 is applicable to the proposed draft LEP in terms of the location of the proposed PAC within the coastal zone. ▪ While the SEPP outlines matters for consideration in the preparation of the proposed draft LEP, it is considered that the applicable considerations are more appropriately dealt with during the development application stage when the design of the PAC is finalised and the potential impacts on the coastal foreshore is known.

**Proposed Draft LEP Amendment in Respect of LEP Bundle 2 (Attachment 10)
(contd)**

Regional Policies	
Draft Central Coast Regional Strategy (Draft CCRS)	
<ul style="list-style-type: none"> ▪ The <i>draft CCRS</i> aims to provide cultural facilities within the Wyong-Tuggerah Major Centre and prioritises development that increases town-based commercial activity and helps facilitate the activation of the Wyong River foreshore. 	<p>As discussed under Section 117 Ministerial Direction No. 4, the proposed draft LEP is considered to be consistent with the <i>draft CCRS</i>.</p> <p>The proposed draft LEP will facilitate the provision of community facilities, i.e. the Performing Arts Centre within the Wyong Town Centre.</p>
Draft Central Coast Regional Strategy (Draft CCRS)	
	<p>In addition, rezoning the Memorial Hall site from 5(a) (Special Uses Zone) to 3(a) Business Centre Zone) will achieve the aims for the <i>draft CCRS</i> by strengthening the commercial functions of Wyong and increasing town-based commercial activity.</p>

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WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

329 Contract CPA/120026 – Glenning Valley Bush Regeneration Contract

CPA/120026 DW

SUMMARY

Reporting on the evaluation and selection of tenders for Contract No. CPA/120026 – Glenning Valley PVP Incentives Bush Regeneration Contract.

RECOMMENDATION

That Council accept tenders from the following companies for the listed work sites:

- 1 Engedi Environment Management**
At the tendered hourly rates for sites: 2, 6, 7, 8, 9 & 10
Extended Schedule of Rates Amount = \$207,592.00 (incl. GST)

- 2 Bushland and Rainforest Regeneration Cooperative (BARRC)**
At the tendered hourly rates for sites: 1, 3, 4, & 5
Extended Schedule of Rates Amount = \$133,056 (incl. GST)

BACKGROUND

The Glenning Valley Property Vegetation Plan (PVP) incentives Project is a Council initiative funded by the Hunter - Central Rivers Catchment Management Authority (CMA) through their PVP Incentives Round 1 Program 2005.

The project has selected a number of ecologically sensitive bushland areas of high conservation value. The works under this contract involve the removal of noxious and environmental weeds from these areas to enhance the wildlife habitat and protect threatened animal and plant species.

Ten sites were identified for restoration and their locations are shown in Enclosure 1. Enclosure 2 presents details of each site and the works required.

Council has been actively managing six of the 10 sites (60 hectares) over a five year period with funds allocated under the Sensitive Areas Programme as provided in the Management Plan. The CMA Grant Funding will allow Council to continue its current Sensitive Areas Program and include an additional four sites comprising 240 hectares bringing the total area to 300 hectares.

Contract CPA/120026 – Glenning Valley Bush Regeneration Contract (contd)

The selection criteria for each of the sites were based upon the following highly valued ecological attributes:

- Regionally significant vegetation communities or habitat
- The presence of threatened flora or fauna
- The presence of endangered ecological communities
- The size and connectivity to other ecologically valued sites within the landscape
- The sites prospect for recovery and their sensitivity to threatening process

Only companies with appropriate skills and qualified staff will be able to work in areas affected by the Threatened Species Conservation Act. Council now holds a section 132C Scientific licence, issued under the National Parks and Wildlife Act to undertake the prescribed works within these sensitive areas of high conservation value.

Works required under this tender will be controlled by detailed technical specifications which include a three year Works Programme. Plans have been prepared for each site which divide the areas into prioritised functional units called treatment areas. Each treatment area has been assigned a vegetation condition code based upon percentage weed cover. The specifications require the contractor to commence work in treatment area one and sequentially work from the highest priority to the lowest priority areas. The Superintendent will arrange regular site visits to measure contract performance with payments made as prescribed milestones are met and the vegetation condition is improved in accordance with the tender specifications. The Superintendent will also arrange regular random site visits and inspections of the work in progress to ensure all work requirements are progressing at a satisfactory rate. An important element of the proposed structure of the contract is that it allows the review and comparison between the performance of the two contractors.

In addition permanent photographic monitoring stations will be established by the Superintendent in several locations in each treatment area. A series of photographs will be taken by the Superintendent before and on conclusion of the works to help assess the success of work in each area.

The quantum of works required under the contract equates to over one year's prescribed work for a team of four persons. The project is funded entirely by the CMA and will not be available for recurrent maintenance works. The prescribed works under this contract are part of a long term strategy to ensure that the sites are protected into the future. Ongoing funding for such maintenance is provided by Council.

Contract CPA/120026 – Glenning Valley Bush Regeneration Contract (contd)

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 13 March 2007 and the Central Coast Express Advocate on 14 March 2007. Tenders were invited on a schedule of rates basis which required tenderers to submit an all inclusive hourly rate to provide and supervise a team of four qualified personnel in accordance with the specifications. Payments to the successful contractor are made on the basis of the tendered hourly rates and the actual hours worked.

The contract will be undertaken over a period of three consecutive years with no rise and fall applicable to the tendered rates. Tenders closed at Council Chambers at 2:00pm on Thursday 5 April 2007.

EVALUATION OF TENDERS

Tenders were evaluated by a panel of three staff members (one of whom was from a unit other than the one managing the procurement process) using the following assessment criteria:

Assessment Criteria

- 1 Tendered price.
- 2 Personnel qualifications and experience.
- 3 Previous performance, current financial position and commitment on other contracts.
- 4 The Tenderers ability to manage risks.
- 5 Compliance with the Specification/Brief and other Tender requirements.

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 the project file.

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and related correspondence, referees, external advisors and presentations made by the shortlisted tenderers.

The evaluation was conducted according to the following process.

- 1 Assessment of receipt of tenders.
- 2 Assessment of conformance of tenders.
- 3 Shortlisting of tenders.
- 4 Detailed weighted evaluation of shortlisted tenders.
- 5 Due diligence checks on preferred tenderers.
- 6 Independent review of the tender evaluation panel by Council's Manager of Contract Systems.

Contract CPA/120026 – Glenning Valley Bush Regeneration Contract (contd)**Assessment of Receipt**

The following tenders were received and listed alphabetically.

Tender	Company Description	¹ Schedule of Rates (Inc. GST)	Status
<i>Bangalow Bushland Management.</i>	<i>Bushland restoration. Based on the Central Coast.</i>	<i>N/A</i>	<i>Submitted late (eliminated)</i>
<i>Bushland and Rainforest Regeneration Cooperative (BARRC)</i>	<i>Bushland management, including restoration. Sydney based company employing Bush Regenerators on the Central Coast.</i>	<i>\$140.80</i>	<i>Submitted on time</i>
<i>Engedi Environment Management</i>	<i>Bushland management, including restoration. Based on the Central Coast.</i>	<i>\$123.20 (6 sites) \$132.00 (4 sites)</i>	<i>Submitted on time</i>
<i>Gecko Environment Management</i>	<i>Bushland management, including restoration. Based on the Central Coast.</i>	<i>\$145.20</i>	<i>² Submitted on time</i>
<i>Hunter Land Management</i>	<i>Bushland management, including restoration. Based in the Hunter.</i>	<i>\$176.00</i>	<i>² Submitted on time</i>
<i>T.E.N.T.A.C.L.E</i>	<i>Bushland restoration. Based on the Central Coast.</i>	<i>\$132.00</i>	<i>Submitted on time</i>
<i>Total Earth Care</i>	<i>Bushland management, including restoration. Sydney based company employing bush regenerators on the Central Coast</i>	<i>\$145.20</i>	<i>² Submitted on time</i>

- ¹ This tendered rate was to be based upon an all inclusive hourly rate to provide and supervise a team of four personnel to undertake bush regeneration as prescribed within the tender document.
- ² The initial tendered rates provided by Hunter Land Management, Total Earth Care and Gecko Environmental Management were incorrectly based on one person teams. Refer Assessment of Conformance for further details.

Contract CPA/120026 – Glenning Valley Bush Regeneration Contract (contd)

The Tender from Bangalow Bushland Management was received after the advertised closing time and was considered to be a late tender and was not considered further. All other tenders were progressed to an assessment of conformance.

Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements, including the specification. Tenders from Engedi Environment Management, T.E.N.T.A.C.L.E and BARRC conformed to all requirements and were progressed to the next stage of evaluation.

Tenders from Hunter Land Management, Gecko Environment Management and Total Earth Care provided a scheduled rate based on a per person hourly rate rather than an all inclusive hourly rate for a team of four persons. The required scheduled hourly rate was clearly prescribed within the tender document. After seeking clarification on this matter, the three companies advised that they had made an error of calculation and provided new amended schedule of rates in accordance with the requirements of the tender document. These corrections were accepted by the Tender Panel as genuine arithmetic errors. Although the initial tenders were strictly non-conforming, allowing this correction for the three companies provided a competitive assessment of all tenders and acknowledged the intent of the three tenders when pricing the work.

BARRC's tender conformed in all areas except for one; BAARC tendered an alternate Schedule of Rates by providing a separate fixed rate for each year over the three year contract period. The separate rates were based on predicted CPI adjustments. The increases are in the order of 3% per annum and are consistent with recent CPI adjustments. The tender document does not provide for adjustments for rise and falls in costs. Although, the tender could be considered as non-conforming, clause 1.4.1: of the tender document allows for non-conforming tenders to be considered at the absolute discretion of Council where they may represent an advantage to Council. The Panel considered that BARRC's tender, although non-conforming, represents an advantage to Council as indicated in the weighted evaluation score on the following pages. For ease of comparing tenders, an amount was calculated based upon an average of the three rates. The adjusted average rate over this period used as part of this tender then becomes \$140.80/team/hour.

The tender from Gecko Environment Management indicated that the company would be unable to commit to delivering a service to all 10 sites and provided a list of four sites that were preferred should they be successful with their tender. The tender document allows for the contract to be split and for sites to be allocated to different companies. The Tender Panel accepted the company's proposal and accepted the tendered schedule rate. This company's tender was progressed on the basis of this condition.

Contract CPA/120026 – Glenning Valley Bush Regeneration Contract (contd)**Shortlisting**

Hunter Land Management tendered an amount 21% higher than the pre-tender estimate and 38% higher than the lowest priced tender. Regardless of how it rated on non-price criteria the substantial price difference would make it unviable for this tender to rate as the preferred option after a full weighted evaluation. Hunter Land Management's tender was therefore eliminated to allow the evaluation process to concentrate on the remaining five competitive tenders.

Weighted Evaluation

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

Tender	Schedule of Rates (Inc. GST)	Weighted Evaluation Score Sites: 1, 3, 4 & 5	Weighted Evaluation Score Sites: 2,6,7,8,9 & 10
<i>Engedi Environment Management</i>	\$123.20 (sites 2,6,7,8,9 & 10)	85	85
<i>BARRC</i>	\$132.00 (sites 1,3,4 & 5)	83	81
<i>T.E.N.T.A.C.L.E</i>	\$140.80	72	70
<i>Total Earth Care</i>	\$132.00	79	77
<i>Gecko Environment Management</i>	\$145.20	79	77

Engedi Environment Management tendered the lowest scheduled rate with the highest score of 85. This tender was compliant. Engedi's recent performance on similar contracts for Council has been to a high standard with highly satisfactory outcomes.

BARRC tendered the third lowest scheduled rate but scored an overall second weighted evaluation score. This tender was compliant. Although BARRC was not the lowest of the tendered rates, it scored higher on non-price criteria. BARRC's recent performance on similar contracts for Council has been to a high standard with highly satisfactory outcomes. Personnel qualifications meet all essential requirements with extensive experience in the industry.

T.E.N.T.A.C.L.E tendered the second lowest scheduled rate, however, received the lowest overall weighted score. T.E.N.T.A.C.L.E scored lower on non-price criteria. While T.E.N.T.A.C.L.E's recent performance on smaller similar contracts for Council met basic requirements, based on comparisons with the past contract performance of other tenderers, their score for previous contract performance was lower.

T.E.N.T.A.C.L.E's OH&S system was considered to be of lesser quality than those provided by other tenderers. Several essential OH&S schedules were not provided. Personal qualifications and experience did satisfy essential requirements. A detailed assessment of T.E.N.T.A.C.L.E's tender can be found in the tender evaluation report.

Contract CPA/120026 – Glenning Valley Bush Regeneration Contract (contd)

Total Earth Care tendered an equal fourth lowest scheduled rate. Total Earth Care's recent performance on similar contracts for Council meets all essential requirements. Personnel qualifications and experience also meet all essential requirements.

Gecko Environment Management tendered an equal fourth lowest scheduled rate. Council has not yet engaged the company on similar contracts, however, Gecko meet all of the essential requirements with many years experience in the industry undertaking similar works for both government agencies and the private sector.

Engedi Environment Management being the highest scoring tender, was progressed to the due diligence stage of the evaluation. BAARC being the second highest scoring tender, also progressed to the due diligence stage.

Due Diligence

The tender from Engedi Environment Management and BAARC were subjected to financial and referee checks.

On the basis of the information provided by the tenderer, Council's independent financial assessor Kingsway Financial Assessments, and independent referees, it is considered that both Engedi Environment Management and BAARC, possess the financial and managerial resources necessary to satisfactorily complete the allocated works.

However, Engedi Environment Management being the highest scoring company has tendered a substantially lower scheduled rate when compared with the other companies tendering. A referee check revealed that Engedi have experienced minor difficulties in meeting deadlines for at least one other agency on a similar sized contract. It is therefore a possibility that Engedi may experience similar difficulties meeting the milestones prescribed for all sites within the works programme of the tender. Council will be measured against the milestones identified in the Property Vegetation Plan by the Hunter Central Rivers - Catchment Management Authority, with grant funds released to Council as milestones are met by the contractors. In order to deal with such possible risks, it is the view of the evaluation panel that they should split the contract and spread the risk over the three year period by allocating the work to Engedi Environment Management and BAARC. The additional cost to Council to reduce the risk by splitting the contract and allocating 4 sites to BAARC is considered to be minor and represents an increase of only 2.5% from \$332,332 to \$340,648 or \$8,316. Tender CPA/120026 provides that the Principal may allocate any number of different sites to different companies. The tender also provides for the Principal to adjust, at its discretion the available hours at each site.

Contract CPA/120026 – Glenning Valley Bush Regeneration Contract (contd)

Engedi Environment Management is a Central Coast based company sourcing Bush Regenerators from the Central Coast. Bushland and Rainforest Restoration Cooperative (BARRC) operates between Sydney and the Far North Coast, is based in both Sydney and Pacific Palms, Forster. BARRC source Bush Regenerators as locally as possible to the contract works. At least two of BARRC's Bush regenerators are from the Central Coast.

Process Review

This evaluation process and recommendations have been endorsed by the Acting Manager – Contract Systems.

BUDGET

Grant funds of \$397,325.00 are available for this project through the CMA over the three year period. After allowing for Council administration costs and cultural assessment and training costs by the Darkinjung Aboriginal Land Council, funding of \$350,000.00 is available for this work.

The allocation of six sites to Tender No. 4. (Engedi) at the scheduled rate amount of \$123.00/team/hour will result in an estimated contract cost of \$207,592.00.

The allocation of the remaining four sites to Tender No. 6 (BARRC) at the scheduled rate amount of \$140.80/team/hour will cost a further \$133,056.00.

Total predicted expenditure from these two companies will therefore be \$340,648.00 which is within the available budget and 10% less than Council's pre-tender estimate. This is considered to represent an appropriate price for the contract works.

TIME-FRAME

It is anticipated that the contract will commence during August 2007. Specific milestones have been prescribed within the tender Works Programme and must be met by the successful tenderer by April 2008, April 2009 and April 2010.

LOCAL CONTENT

Tender CPA/120026 is expected to generate approximately 276 person-weeks of labour requirements. These labour resources to be employed on the project will be sourced generally from within the Central Coast. Engedi Environment Management is a Central Coast based company sourcing Bush Regenerators from the Central Coast. Bushland and Rainforest Restoration Cooperative (BARRC) operates between Sydney and the Far North Coast, is based in both Sydney and Pacific Palms, Forster. BARRC source Bush Regenerators as locally as possible to the contract works. At least two of BARRC's Bush regenerators are from the Central Coast.

Contract CPA/120026 – Glenning Valley Bush Regeneration Contract (contd)

CONCLUSION

On the basis of the information provided by the tenderers, it is considered that Engedi Environment Management and BAARC possess all of the technical, financial and managerial resources necessary to satisfactorily complete the works within the allocated budgets. Both Engedi Environment Management and BAARC have completed contracts for Council similar in nature to the current works required by tender CPA/120026. Both companies have in place fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

Enclosure 1
Enclosure 2

Location Map. Sites 1-10 (1 Page)
Description of Sites 1-10 (1 Page)

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

330 Contract CPA/125834 – Provision of Effluent and Sludge Removal and Disposal Services

CPA/125834 ML: EBL

SUMMARY

This report provides a summary of the evaluation process and selection of tenders for Contract No CPA/125834 – Provision of Effluent and Sludge Removal and Disposal Services.

RECOMMENDATION

That Council accept tender No. 1 from Thiess Services Pty Ltd for a period of five years commencing on 7 September 2007. The estimated annual expenditure against this contract is \$194,719.00 including GST (\$177,017.00, excluding GST) however actual expenditure may vary significantly with fluctuations in demand.

BACKGROUND

Council provides an effluent and sludge removal and disposal service for properties that are not connected to the reticulated sewerage system. These services are provided under a contract arrangement that will shortly expire and tenders were sought for a new contract to commence in September 2007 for a five year period.

There are currently 39 domestic and 20 commercial and Council premises in the Shire that receive a regular fortnightly or more frequent effluent pump-out service from the collection well of a septic tank. Most of these residential premises with pump out systems can connect to sewer now or will be able to connect within the near future.

However, there are a number of properties that are not able to connect to the sewer for various reasons. Some cannot be economically connected due to the topography of the area or are not yet located in reasonable proximity to a sewer main. Others are residential properties located in areas due to be redeveloped in the future as industrial land. These properties would incur very high contribution fees due to the rezoning of the land as well as the cost of making a connection. While Council has the power under the Local Government Act to serve notices on these properties to connect to sewer, to do so would in many cases impose great financial hardship. The existing septic tank system is therefore considered to be a temporary arrangement that will change once the land is developed or if a risk to public health justifies serving a notice.

A further approximately 2,700 premises, generally in rural areas, are also connected to either on-site septic tanks or aerated waste treatment systems (AWTS) that also require the periodic removal of sludge to maintain these systems.

Contract CPA125834 – Provision of Effluent and Sludge Removal and Disposal Services (contd)

The services to be provided under this contract include the provision of emergency effluent removal for residents as well as emergency pump out services to Council's Sewage Pumping Stations if required. Emergency services must be provided during normal working hours as well as outside these hours and on weekends. Pump-out services to sludge lagoons at Sewage Treatment Plants and transport of the waste to other Treatment Plants are also included in this contract.

Residential premises receiving an effluent pump-out service currently pay an annual charge as set in the Management Plan. The charge of \$915.58 for 2007/08 entitles the owner to a regular fortnightly service.

Under the contract, the contractor is required to invoice and collect fees directly from the owner or occupier of a commercial premises for the provision of effluent collection services, and from owners or occupiers of commercial and domestic premises for the provision of sludge removal and disposal services. The fees charged are in accordance with Council's Management Plan. The fees collected by the Contractor from residents and the fees payable to the Contractor for the services provided are reconciled on a monthly basis.

Similarly, the contractor will invoice Council for the provision of effluent and/or sludge removal services to Council premises or emergency pump-out services to sewage pumping stations.

The annual effluent pump out charge as well as the fees for the sludge removal services have been approved by the Independent Pricing and Regulatory Tribunal (IPaRT) and are based on the contractor's tendered price, disposal cost for effluent or sludge and related Council overheads. The fees and charges for providing effluent and sludge removal services are reviewed and approved by IPaRT every three years.

The current contract was awarded to Transpacific Industries Group Pty Ltd and expires on 6 September 2007. This effluent and sludge collection contract was first awarded to Anaconda Waste Services in 2002 and then subsequently assigned to Cleanaway in 2004 and to Transpacific Industries in 2005.

The new contract is a Schedule of Rates contract with a five year term. In the Schedules tenderers were required to provide rates for the provision of effluent services to domestic, commercial and Council premises, provision of sludge removal services from septic tanks and AWTS, emergency services to sewage pumping stations and maintenance services to sludge lagoons. The tendered rates are subject to annual rise and fall adjustments.

TENDER PROCESS

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on May 15, 2007 and the Central Coast Express Advocate on May 16, 2007. The tender was also loaded onto the e-tendering website on Friday, 11 May 2007. The advertised closing date was June 7, 2007. The invitation documents called for Schedule of Rates tenders based on a detailed specification.

Contract CPA125834 – Provision of Effluent and Sludge Removal and Disposal Services (contd)

The following addendum was issued to all prospective tenderers during the invitation period.

- 1 Information on the quantities of effluent collected under the current contract from domestic, commercial and Council premises. (issued 25 May 2007).

Tenders closed at Council Chambers at 2:00pm on 7 June 2007.

Evaluation of Tenders

Tenders were evaluated by a panel of three staff members. Two staff members were from Council's Contracts and Special Projects Section and one member from the Water and Waste section. The following threshold and weighted criteria were used:

- * Conformance with the specification and requirements of the tender documents.
- * Ability to manage environmental and safety risk.
- * Financial capability
- * Price
- * Experience, Capacity and Past Performance
- * Technical and Operational Capability
- * Adequacy of Outline Operational Procedure Manual

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 related correspondence, referees, external advisors and presentations made by the tenderers.

The evaluation was conducted according to the following process.

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

Contract CPA125834 – Provision of Effluent and Sludge Removal and Disposal Services (contd)

Assessment of Receipt

The following tenders were received:

<i>Tender</i>	<i>Estimated Annual Cost (Ex. GST)</i>	<i>Status</i>
<i>1 Hook-it-Waste Pty Ltd</i>	<i>\$171,343.00</i>	<i>Submitted on time</i>
<i>2 Thiess Services Pty Ltd</i>	<i>\$177,017.00</i>	<i>Submitted on time</i>
<i>3 Transpacific Industries Group Pty Ltd</i>	<i>\$218,217.00</i>	<i>Submitted on time</i>

All tenders were submitted on time and were progressed to an assessment of conformance.

Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements, including the specification. Tender No. 2 (from Thiess) and tender No. 3 (from Transpacific) contained a range of conditions and requests to change various conditions of contract mainly in relation to insurance matters. Thiess and Transpacific were requested to withdraw these conditions and both companies complied with this request. After withdrawing their conditions the tenders from Thiess and Transpacific conformed to all requirements and were progressed to the next stage of evaluation.

Tender No. 1 (from Hook-it-Waste) did not include Schedule 13 - Outline of the Operational Procedure Plan. A required outline of the proposed Safety Plan and Environmental Management Plan was also not submitted. No information was provided on the time required to respond to emergencies. The panel sought clarification on the emergency response time and it was confirmed that Hook-it-Waste was able to respond to emergencies within one hour. As part of the review process a financial assessment was undertaken by Kingsway Financial Services. Based upon the information provided by the Tenderer, the financial assessment determined that the company had an unsatisfactory financial capability when measured against predetermined criteria. The tender from Hook-it-Waste was therefore not progressed to the next stage of evaluation. A sensitivity analysis was also undertaken and established that the tender relativity would not have changed if the tender from Hook-it-Waste was included in the tender evaluation process.

Weighted Evaluation

Tenders were scored against each of the weighted evaluation criteria (including price and non-price elements), with the following result:

Contract CPA125834 – Provision of Effluent and Sludge Removal and Disposal Services (contd)

<i>Tender</i>	<i>Estimated Annual Cost (Ex. GST)</i>	<i>Weighted Evaluation Score</i>
<i>1 Hook-it-Waste Pty Ltd</i>	<i>\$171,343.00</i>	<i>n/a</i>
<i>2 Thiess Services Pty Ltd</i>	<i>\$177,017.00</i>	90
<i>3 Transpacific Industries Pty Ltd</i>	<i>\$218,217.00</i>	75

The tender from Thiess included a comprehensive and satisfactory outline of the proposed Operational Procedures Manual. The outline operational procedures manual allowed the evaluation panel to develop an understanding on how the company will undertake all elements of the contract including service delivery, complaint handling, fee collection, booking of services etc. The company has extensive experience in the provision of effluent and sludge removal services and currently holds effluent contracts for Lake Macquarie Council and Sydney Water. Thiess has the technical capability to provide the required services with a range of tankers available to undertake all components of the contract.

Transpacific is the incumbent contractor. This company has significant experience and currently holds contracts for similar works with Hunter Water and Gosford City Council. Transpacific also has the technical capability to provide the service and propose a range of tankers to undertake the works.

The tenders from Thiess and Transpacific were progressed to the due diligence stage of the evaluation.

Due Diligence

All tenders were subjected to a financial assessment, an in-house safety/environment system assessment and Thiess and Transpacific were also subjected to referee checks. Both Thiess and Transpacific received satisfactory references and the referees stated that both companies deliver the effluent and sludge removal services to a high standard. Thiess and Transpacific received a satisfactory financial rating.

On the basis of the information provided by the tenderer, Council's independent financial assessor Kingsway Financial Assessments, and independent referees, it is considered that Thiess Services Pty Ltd possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

Thiess has its head office at Thornton, but is currently in the process of constructing a new depot at Somersby. The company has a history of successfully completed contracts similar in nature and scope to the current works.

Contract CPA125834 – Provision of Effluent and Sludge Removal and Disposal Services (contd)

The company has in place fully documented and accredited Occupational Health Safety, Environmental Management and Quality Assurance systems.

Process Review

This evaluation process and recommendations have been endorsed by the Acting Manager – Contract Systems.

Time-Frame

The contract is for a period of five years and will commence on 7 September 2007.

Local Content

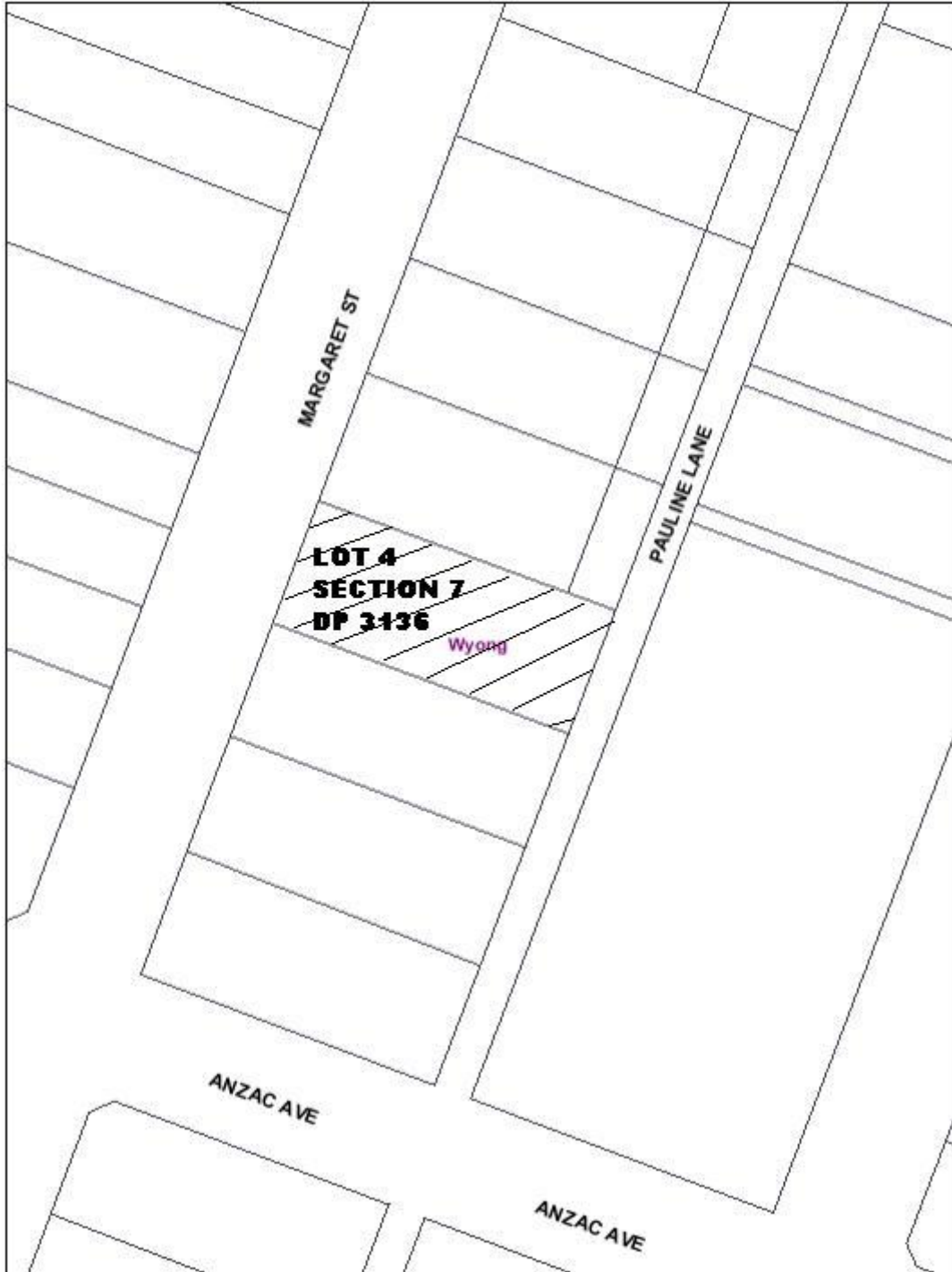
The tenderer has indicated that the contract works are expected to generate employment for 3 people from the Central Coast / Hunter regions.

Conclusion

Tender No. 2 from Thiess is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council and is recommended for acceptance.

**331 Lease of Cottage – 21 Margaret Street, Lot 4 Section 7 DP 3136
Wyong to the Child Abuse Prevention Service (Attachment 1)**

Locality Plan



WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

331 Lease of Cottage – 21 Margaret Street, Lot 4 Section 7 DP 3136, Wyong to the Child Abuse Prevention Service

F2004/09428 SB

SUMMARY

Approval is sought to renew the lease of Lot 4 Section 7 DP 3136, 21 Margaret Street, Wyong, to the Child Abuse Prevention Service for a term of three years.

RECOMMENDATION

- 1 *That Council lease Lot 4 Section 7 DP 3136, 21 Margaret Street, Wyong, to the Child Abuse Prevention Service Central Coast Inc for a term of three years from 1 September 2007 at nominal rental of \$10 per annum.***
- 2 *That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the Lease between the Wyong Shire Council and the Child Abuse Prevention Service Central Coast Inc.***
- 3 *That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between the Wyong Shire Council and the Child Abuse Prevention Service Central Coast Inc.***

BACKGROUND

The Child Abuse Prevention Service (CAPS) has been occupying Council's cottage at Lot 4 Section 7 DP 3136, Number 21 Margaret Street, Wyong adjacent to the Memorial Hall, since 10 April 1996. The current lease expires on 31 August 2007.

CAPS has requested a new lease for a term of five years but otherwise on the same conditions as currently apply. The current lease provides for nominal rent of \$100 per annum with the lessee responsible for the payment of rates and day-to-day repairs and maintenance of the cottage.

CAPS is a group whose aims include:-

- 1 the support of parents, reduction of family stress and to ensure children can grow up in an environment of security, happiness and self worth;
- 2 the prevention or reduction of child abuse in all forms;
- 3 the training of community counsellors and case workers and
- 4 working with Government and other agencies, professional and kindred workers to further the above and educate the community about the community problems of child abuse.

Lease of Cottage – 21 Margaret Street, Lot 4 Section 7 DP 3136, Wyong to the Child Abuse Prevention Service (cont)

CAPS has advised that Occupational Health and Safety provisions require that when the office is manned, two representatives of CAPS are to be in attendance. As the operation is voluntary this is not able to be achieved during regular hours and as a consequence the service operates by appointment and the premises are manned on an as needs basis.

At present CAPS operates a 24-hour crisis telephone line and a counselling service for parents and children in distress in a safe and non-threatening environment and supports directly or indirectly 60 families. It attends six to eight incidents per week and the premises at 21 Margaret St are used on average four times or between 10 and 18 hours per week.

Council's Land Use and Policy Planning Section has advised that the site has been identified as having increased development potential in the draft Wyong/Tuggerah Planning Strategy. Under the draft Strategy, the subject property is identified for rezoning from 5(a) Special Uses to 3(a) Commercial, and is further identified as being suitable for a mixed use building of up to six storeys in height. Following the anticipated adoption of the draft Strategy, Council will commence a draft Local Environmental Plan and revise Development Control Plan 2005: Chapter 7 Wyong Town Centre to provide for the change in zoning, and increase the density and height for the subject property. This process would take approximately two years, allowing for redevelopment of the site to a higher use after that time.

Council's commitment to the Performing Arts Centre is also a consideration on the matter. Council has engaged consultants to prepared a detailed business plan and concept design for the new Performing Arts Centre at River Road. It is anticipated that the Performing Arts Centre will commence operation in mid to late 2010. At that time Council will be in a position to reassess tenancy options for Council properties in Wyong. Accordingly, a lease term of three years for CAPS at 21 Margaret Street, Wyong is appropriate at this time, together with a rent of \$10 per annum.

On the basis of the future potential use of the premises and the likely timing of redevelopment, it is proposed that a further lease term of three years only be allowed on the same terms as the current Lease.

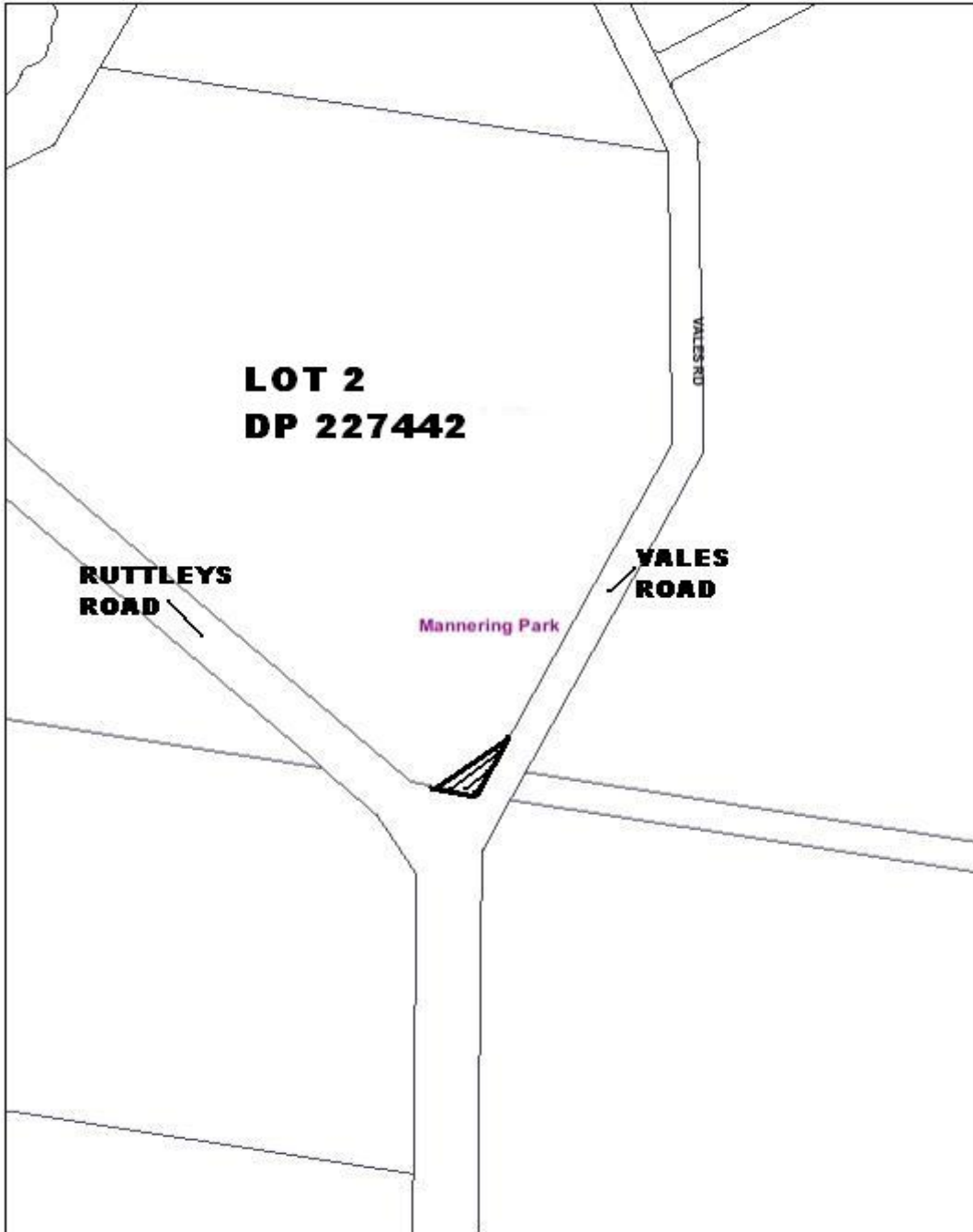
Attachment 1

Plan showing the location of the premises hatched (1 page)

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**332 Proposed Acquisition of Private Land - Part of Lot 2
DP 227442 at Corner of Rutleys Road and Vales Road,
Mannering Park for Road Widening Purposes (Attachment 1)**

Locality Plan



WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

**332 Proposed Acquisition of Private Land - Part of Lot 2
DP 227442 at Corner of Rutleys Road and Vales Road,
Mannering Park for Road Widening Purposes**

F2006/02268 SB

SUMMARY

Authority is sought to acquire part of Lot 2 DP 227442, at the corner of Rutleys Road and Vales Road, Mannering Park as public road for the purpose of road widening.

RECOMMENDATION

- 1 *That Council acquire part of Lot 2 DP 227442 at the corner of Rutleys Road and Vales Road, Mannering Park as public road.***
- 2 *That in the event the existing agreement with Delta Electricity for the acquisition not proceed, Council proceed to compulsorily acquire the land in 1 above and authorise the payment of compensation for the acquisition in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.***
- 3 *That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Transfer and/or Plan and to any necessary applications to the Department of Local Government for the approval of the Minister and the Governor in order to proceed with the compulsory acquisition if required.***
- 4 *That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer and/or Plan and all documents relating to any applications to the Department of Local Government.***

BACKGROUND

Council proposes to construct a deceleration lane at the corner of Rutleys Road and Vales Road to improve the amenity and safety of the road at this location.

The construction of the deceleration lane will affect Lot 2 DP 227442 and it is necessary to acquire part of Lot 2 DP 227442 as public road.

Lot 2 DP 227442 has an area of 162,000 square metres and the road widening has an area of approximately 328.8 square metres. Lot 2 DP 227442 is 5(a) Special Uses (Power Station) and 7G Wetland Management.

Proposed Acquisition of Private Land - Part of Lot 2 DP 227442 at Corner of Rutleys Road and Vales Road, Mannering Park for Road Widening Purposes (cont)

The owner of the land has been advised of the proposal and supports the roadworks having completed a Permit to Enter the property for construction purposes.

In view of the minor nature of the road widening required it is considered that the acquisition will have minimal impact on the residue of the property to be retained by Delta Electricity and accordingly Delta Electricity has agreed in writing to the acquisition by Council of the land required as public road for the sum of \$1.00 provided Council will meet the costs associated with the transfer of the land and its dedication as public road, including survey and legal costs.

In the event that the acquisition of the road widening land in accordance with the current agreement with Delta Electricity is not able to be completed, compulsory acquisition of the land required for road is required by Council.

Attachment 1

Plan showing the land to be acquired (1 page)

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

333 Proposed Councillors' Community Improvement Grants

F2007/00729 MW

SUMMARY

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

RECOMMENDATION

That an amount of \$3,490 be allocated from the 2007/2008 Councillors' Community Improvement Grants as outlined in Attachment 1.

BACKGROUND

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

Attachment 1

***Councillors' Community Improvement Grants 2007/2008
(1 page)***

Proposed Councillors' Community Improvement Grants (Attachment 1)**Proposed Councillors' Community Improvement Grants 2007/2008**

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Forster	Graham	Pavier	Rose	Stevens	Stewart	Veugen	Welham	SUB TOTAL
Allocation 01/07/2007 - 30/06/2008		7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	75,000
Expenditure up to and including Ordinary Council Meeting of 25/07/2007		1,850	1,000	0	1,750	50	1,000	200	3,000	250	1,950	11,050
Available allocation as at 25/07/2007		5,650	6,500	7,500	5,750	7,450	6,500	7,300	4,500	7,250	5,550	63,950
8 August 2007												
Central Coast Indian Myna Action Group	Assist with purchase of brochures, stickers, cages, gas bottles for euthanasia of birds and box trailer to carry cages	250	200						500	500		1,450
Community Environment Network	Assist in the purchase of a 300 litre refrigerator	100										100
Doyalson Wyee Cricket Club	Additional practice nets and upgrading existing site screens	150										150
Glengara Seniors Computer Club	Assist with the purchase and upgrade of club equipment	200							150			350
Gwandalan Lions Club	To assist with the expenditure involved in staging the Gwandalan Spring Festival						45	45				90
Long Jetty Preschool	Assist with cost of Council Rates								500			500
Northlakes Public School	NAIDOC Day educational and cultural activities	100								500		600
Tuggerah Lakes Secondary College	Assist with sending Aboriginal students to participate in CrocFest 2007 Festival at Kempsey								250			250
Total Proposed Allocations for 08/08/2007		800	200	0	0	0	45	45	1,400	1,000	0	3,490
Total Accumulated Allocations as at 08/08/2007		2,650	1,200	0	1,750	50	1,045	245	4,400	1,250	1,950	14,540
Balance Uncommitted as at 08/08/2007		4,850	6,300	7,500	5,750	7,450	6,455	7,255	3,100	6,250	5,550	60,460

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

General Manager's Report

334 Information Reports

F2006/02282 ED:MR

SUMMARY

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

RECOMMENDATION

That the Information Reports be dealt with by the exception method.

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

335 Schedule of Bank Balances and Investments – June 2007

F2004/06604 HS

SUMMARY

The attached Schedule of Bank Balances and Investments as at 30 June 2007 is submitted for information.

RECOMMENDATION

That the report be received and the information noted.

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation (2005) and Council's Investment Policy which was adopted by Council on 22 November 2006 (Minute No. 519).

The Schedule of Bank Balances and Investment Accounts shows that Council has total cash and investment funds of \$108,877,984 as at 30 June 2007. This compares to an opening balance of \$116,561,933 as at 1 July 2006. These funds are invested with Fund Managers in accordance with Council's decision to adopt an investment policy that involves the use of external Fund Managers.

During the month of June interest earned (net of fees) on Council's investments was \$541,181 financial year to date earnings were \$7,118,745.

The following table provides a summary by fund of the above information:

	Investment Balances		Interest	
	Opening Balance	Closing Balance	Interest Net Of Fees	Annual Budget
	July 1 2006	June 30 2007	YTD	
General	66,533,621	71,992,818	4,192,332	4,265,000
Water	34,456,574	15,185,232	1,757,090	1,286,000
Sewer	15,571,738	21,699,934	1,169,323	751,000
Total	116,561,933	108,877,984	7,118,745	6,302,000

Schedule Of Bank Balances And Investments – June 2007 (contd)

Council's bank balances and investments as at 30 June 2007 are listed as Attachment 1 to this report. Also submitted is a Certificate in accordance with the provisions of the Local Government (General) Regulation 2005 that the Investments held at 30 June 2007 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

Performance

Council's investment portfolio is monitored and assessed based on the following criteria:

Management of Bank Balance

The aim is to keep the bank balance as low as possible and hence maximise the amount invested on a daily basis.

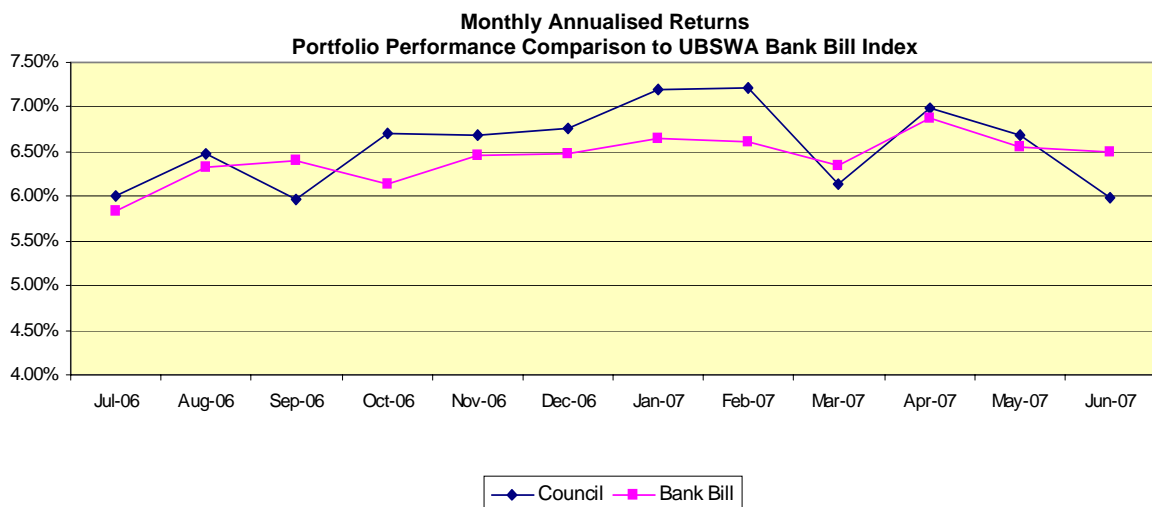
Portfolio and Monthly performance against the UBSWA Bank Bill Index

The weighted average return for each of Council's investments is compared to the UBSWA (Union Bank of Switzerland Warburg Australia) Bank Bill Index which is the market benchmark rate.

The weighted average return for the total portfolio of Council's managed funds (net of fees) during June was 5.99% compared to the benchmark of the UBSWA Bank Bill Index of 6.49%.

During the previous 12 months Council's return has been 6.48% compared to the Bank Bill Index of 6.42%.

The previous poor performance in June 2007 was the result of under-performance in the Perpetual Structured Income Fund, which returned 4.96% annualised in June, resulting in a year to date return of 4.57% annualised. This under-performance has been primarily due to a re-rating of the US sub prime mortgage market. As a result of the under-performance and in consultation with Council's Investment Advisors, Grove Advisory, Council withdrew 100% of these funds on the 10 July 2007. These funds have now been re-invested across Merrill Lynch Diversified Credit Fund and QIC Cash Enhanced Fund as advised by Grove.



Schedule Of Bank Balances And Investments – June 2007 (contd)

The Schedule of Investment below details for each Fund Manager annualised returns for the:

- current month;
- financial year-to-date;
- moving annual total.

SCHEDULE OF INVESTMENTS AS AT June 30 2007							
FUND MANAGER	TYPE	PORTFOLIO BALANCE	INCOME FOR MONTH	FEES	ANNUALISED RETURNS		
					MONTH	FYTD*	MAT**
Local Gov't Financial Serv	Cash Plus	1,172,197.79	5,878.86	-	6.31%	6.37%	6.37%
BT Institutional Managed Cash (AAA)	Cash	9,010,196.25	44,312.51	485.64	6.32%	6.25%	6.25%
Aberdeen Cash Plus Fund (A)	Cash Plus	20,512,422.02	91,399.81	1,202.54	5.51%	6.50%	6.50%
ING Enhanced (A)	Cash Plus	15,872,265.55	81,655.24	930.52	6.40%	6.54%	6.54%
Perennial Cash Enhanced Fund (AA)	Cash Plus	9,265,788.44	64,505.85	746.29	6.27%	6.47%	6.47%
Perpetual Structured Income Fund (AA)	Cash Plus	5,061,572.89	20,409.00	296.78	4.96%	4.57%	4.57%
Macquarie Income Cash Plus (A)	Cash Plus	21,971,472.62	108,970.80	1,287.99	6.16%	6.54%	6.54%
T-Corp (WorkCover NSW)	Cash Plus	7,403,000.00	38,067.60	-	6.36%	6.15%	6.15%
Merrill Lynch (A)	Cash Plus	12,153,228.03	53,655.82	713.39	5.46%	7.15%	7.15%
QIC Cash Enhanced (AA)	Cash Plus	6,455,840.64	41,906.42	479.97	6.42%	6.52%	6.52%
Grove Advisory Fees				3,436.95			
TOTAL		108,877,984.23	550,761.91	9,580.07	5.99%	6.48%	6.48%
UBSWA INDEX					6.49%	6.42%	6.42%

*- FYTD= Financial Year to Date

**- MAT = Moving Annual Total

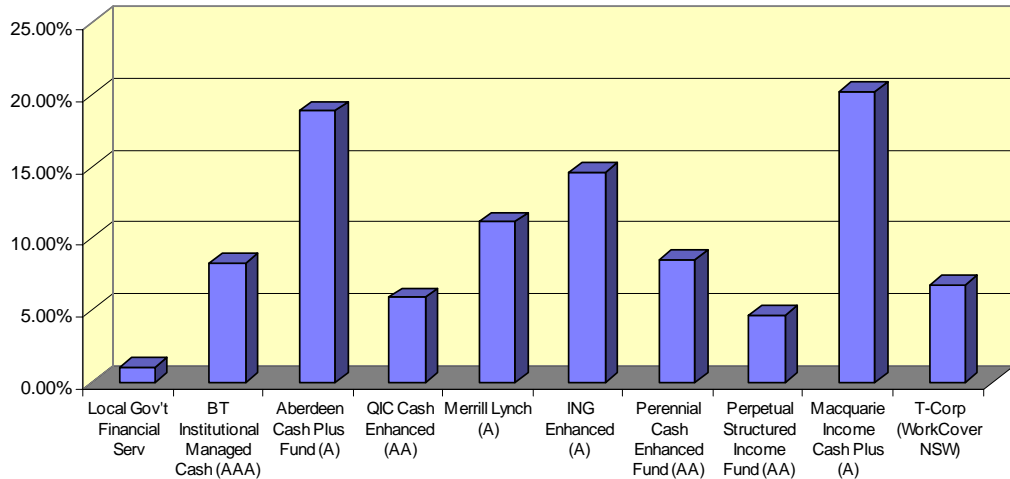
Note: The above returns are net of fees charged

Schedule Of Bank Balances And Investments – June 2007 (contd)

Allocation of Investment Funds

This represents the mix or allocation of investment funds with each of Council's Fund Managers.

Council's funds during June were allocated as follows:



INVESTMENT STATEMENT

In accordance with the Local Government (General) Regulation 2005, Part 9, Division 5, Clause 212, I certify that the investments held at 30 June 2007 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

.....
Director Corporate Services

Schedule Of Bank Balances And Investments – June 2007 (Attachment 1)

SUMMARY

June 30 2007

General

\$

Unrestricted	10,432,718.11
Restricted - Internally	22,072,900.00
Restricted - Externally	39,487,200.00
Total General	71,992,818.11

Water

Unrestricted	-7,046,667.58
Restricted - Internally	864,000.00
Restricted - Externally	21,367,900.00
Total Water	15,185,232.42

Sewer

Unrestricted	1,204,933.70
Restricted - Internally	1,558,000.00
Restricted - Externally	18,937,000.00
Total Sewer	21,699,933.70

TOTAL INVESTMENTS **108,877,984.23****BANK BALANCE PER
BANK STATEMENT** **217,990.99****TRUST ACCOUNT PER
BANK STATEMENT** **26,741.52**

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

336 Activities of the Development Assessment Unit

F2004/07830 NL:NL

SUMMARY

The report includes information and statistics regarding the operations of the Development Assessment Unit and covers the submission and determination of development and subdivision applications for the month of June.

RECOMMENDATION

That the report be received and the information noted.

Development Applications Received and Determined

Type:	Number Received:	Estimated Value \$:	Number Determined:	Estimated Value \$:
Commercial	23	5,564,400	19	15,918,060
Industrial	4	348,000	5	1,342,000
Residential	118	17,971,746	142	12,494,848
Other	15	313,850	17	6,185,781
Total	160	24,197,996	183	35,940,689

Subdivision Applications Received and Determined

Type:	Number Received:	Number of Lots:	Number Determined:	Number of Lots:
Commercial	0	0	0	0
Industrial	0	0	0	0
Residential	5	184	4	73
Rural	1	1	0	0
Total	6	185	4	73

Activities of the Development Assessment Unit (contd)

Mean Turn-around Time

*Note: Given the recent release of statistical information from the Department of Planning (DoP), it should be clarified that the statistics presented within the DoP report presented determination times in **working** days as opposed to the **calendar** days used in Council's internal reporting. In addition, the figures being quoted were for **median** processing times, not **average** or mean processing times and were for the 2005/2006 financial year. As such, it is not possible to compare the determination figures.*

For example, using the DoP methodology, the mean (**average**) turn-around time in working days for development applications determined during the month of June 2007 was 20 days and the **median** turn-around time in working days was 14 days.

However, using Council's current reporting methodology, the mean (average) turn-around time in calendar days for development applications determined during the month was 36 days.

One priority application (large scale office at Bounty Close, Tuggerah) was determined during the month with a processing time of 20 days.

Other Approvals and Certificates

Type:	Number Determined:
Trees	49
Section 149 D Certificates	19
Construction Certificates	80
Complying Development Certificates	7

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

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

337 Reconvening of Developer Forum

F2004/12148 GSM

SUMMARY

Report on investigations undertaken by staff as a result of Council's decision to reconvene the Developer Forum.

RECOMMENDATION

That the report be received and the information noted.

BACKGROUND

At its meeting held on 24 January 2007, Council resolved:

"That Council reconvene the Developer Forum and report on implementation of this resolution."

Representatives from Allam Homes, Bannister and Hunter, Johnson Partners, Mirvac Homes and Yeramba Estates attended a meeting held on 2 May 2007 to discuss the opportunities and benefits of re-establishing the Developer Forum.

Council's Senior Contributions Officer gave a presentation outlining Council's intention to review and update the current Contributions Manual. This presentation was used as an example as to the type of information that could be exchanged at a Developer Forum. All participants were supportive of the concept of a Developer Forum and the type of information that could be disseminated should Forums be reconvened.

The participants identified the following list of issues which they suggest should be considered in the preparation for the reconvening of the Developer Forum.

- Objectives need to be set and agreed to as to both the content and participants.

Comment

Initially, the objectives are:

- To provide a forum where information and ideas may be exchanged between the development industry and Council.
- To inform the development industry of recent legislative changes and the perceived impact of these changes on the industry and Council.

Reconvening of Developer Forum (contd)

- To seek advice from the development industry as to the impact of Council's Development Control Plan, Policies and directions upon the industry.
 - To work in a collaborative manner to improve both the development process and development outcomes on the ground.
- The form of information to be disseminated at the Forum must be clearly identified.

Comment

In this regard, an agenda will be formulated and distributed with the invitation. Members of the Forum will be invited to contribute issues to the agenda.

- The attendees must be selected from the development industry rather than focus groups or individuals.

Comment

Agreed. Other avenues such as Precinct Committees and public meetings are available for other interest groups to access development related information.

- The size of the Forum should be closely monitored so that it does not become unworkable due to the number of participants.

Comment

Initially, the Forum will involve approximately 12 participants, but it is anticipated that the number will increase to a maximum of 20.

- The Forum should meet quarterly.

Comment

Agreed.

- A representative from the elected Councillors should be in attendance at each Forum.

The representatives present were of the view that information relating to the following categories could be used as a guide to establishing the content of the Forums:

- Legislative changes;
- Proposed changes to Council's Codes and Policies;
- Issues arising within the development industry as a result of Council's Policies, procedures and actions; and
- The Forum could be an avenue for Council to seek preliminary information on proposals or Policy changes that Council is considering.

Reconvening of Developer's Forum (contd)

The meeting concluded that the Developer Forum would be an ideal avenue for exchanging information and ideas between Council and the development industry that would not only benefit both parties, but the community as a whole in respect of the outcomes that can be achieved.

As a result, it is proposed to convene the first Developer Forum for 2007/2008 on 19 August 2007 at 2.30pm at Council. The Forum will be conducted quarterly thereafter. Invitations are currently being forwarded to members of the development industry and it is expected that further input into the review of the Contributions Manual and the draft version of Development Control Plan 2005 Chapter 66 – Subdivision will be discussed at the first Forum.

WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

338 Outstanding Questions Without Notice and Notices of Motion

F2006/02282 MW:SW

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

RECOMMENDATION

That the report be received and the information noted.

Question Asked	Asked By	Meeting Asked	Department
Q038 – International Cities, Town Centres and Communities Organisation and Conference (A response will be reported once a reply is received from Councillor Welham)	Councillor Pavier	28 March 2007	Corporate Services
Q061 - Shire Media Advertising Budget (A response will be reported to the Ordinary Meeting on 22 August 2007)	Councillor Eaton	27 June 2007	General Manager's Unit
Q066 – Development Subdivisions in the Vicinity of Wadalba Hill South (A response will be reported to the Ordinary Meeting on 22 August 2007)	Councillor Best	11 July 2007	Shire Planning
Q067 - Entry and Exit to Bunnings and Harvey Norman at Lake Haven (A response will be reported to the Ordinary Meeting on 12 September 2007)	Councillor Welham	25 July 2007	Shire Planning
Q068 - State Cabinet Meeting held in Wyong 23 July 2007 (A response will be reported to the Ordinary Meeting on 12 September 2007)	Councillor Welham	25 July 2007	General Manager's Unit

Outstanding Questions Without Notice and Notices of Motion (contd)

Question Asked	Asked By	Meeting Asked	Department
<p>Q069 - Lease of The Entrance Visitor's Centre to Central Coast Tourism Incorporated</p> <p>(A response will be reported to the Ordinary Meeting on 12 September 2007)</p>	Councillor Forster	25 July 2007	Corporate Services
<p>Q070 - State of Repair of the Jetty at Long Jetty</p> <p>(A response will be reported to the Ordinary Meeting on 12 September 2007)</p>	Councillor Stewart	25 July 2007	Shire Services
<p>Q071 - Demolition of House on the Corner of Warrigal and Taylor Streets, The Entrance</p> <p>(A response will be reported to the Ordinary Meeting on 12 September 2007)</p>	Councillor Stewart	25 July 2007	Shire Planning
<p>Q072 - Thank you to Council's Rangers</p> <p>(A response will be reported to the Ordinary Meeting on 12 September 2007)</p>	Councillor Best	25 July 2007	Shire Planning

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

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WYONG SHIRE COUNCIL

8 August 2007
To the Ordinary Meeting of Council

Shire Planning Department

Answers to Questions Without Notice

Q053 –Sale of No 20 Manning Road, The Entrance

Asked by Councillor Stewart at the Ordinary Meeting held on 23 May 2007
F2006/02036

“Could Council please make enquiries regarding the sale of No 20 Manning Road, The Entrance which is in the proposed carpark?”

At the Ordinary Meeting of 13 December 2006, Council authorised the acquisition of Lot 10 DP 14527, No 20 Manning Road, The Entrance. Contracts were exchanged on 3 July 2007.

8 August 2007
To the Ordinary Meeting of Council

Corporate Services Department

Answers to Questions Without Notice (contd)

Q055 – Development of Shire’s Employment Lands

Asked by Councillor Eaton at the Ordinary Meeting held on 13 June 2007
F2004/08168

“Can Council confirm that development of the Shire’s employment lands is now being prejudiced by identification of Porter’s Creek as a water supply/catchment?”

The Porter’s Creek Catchment is not a dedicated catchment and therefore does not have any legislative basis for controls over development. The water supply function is a temporary measure due to the interim nature of the weir on Porter’s Creek and currently does not prejudice development. The catchment is also subject to a risk management plan which addresses the interim nature of any impacts whilst the weir is used for water supply.

8 August 2007
To the Ordinary Meeting of Council

Corporate Services Department

Answers to Questions Without Notice (contd)

Q063 – Norah Head Lighthouse Trust

Asked by Councillor Veugen at the Ordinary Meeting held on 27 June 2007
F2004/08261

“I have been approached by a number of concerned Norah Head residents and ratepayers regarding the Norah Head Lighthouse Trust’s non compliance with the Heritage Act and the intervention of the local member in this issue, also a large number of board members have resigned. Could staff seek on behalf of our residents and ratepayers an update from this Board as to the real situation?”

Responses received from the Norah Head Light House Reserve Trust and Department of Lands are attached.

Attachment 1
Attachment 2

Letter from Norah Head Light House Reserve Trust (3 pages)
Letter from Department of Lands (2 Pages)

8 August 2007
To the Ordinary Meeting of Council

Corporate Services Department

Answers to Questions Without Notice (contd)

Q063 – Norah Head Lighthouse Trust (Attachment 1)



Once perilous, now safe

Norah Head Lighthouse Reserve Trust

ABN 58 323 014 963

Lighthouse : Bush Street, Norah Head 2263
Lat. 33°17' S Long. 151° 35'

All mail to: Secretary, PO Box 7021, Toowoon Bay 2261

29 June 2007

The General Manager
Wyong Shire Council
PO Box 20
WYONG NSW 2259

Dear Sir

Q63 – Norah Head Lighthouse Trust

Asked by Councillor Veugen at the Ordinary Meeting held on 27 June 2007

Alleged non compliance with the Heritage Act by the Trust

The Norah Head Lightstation Precinct was listed on the State Heritage Register published 13 April 2007. The Norah Head Lighthouse Reserve Trust asserts strongly that there has never been, or will be, an instance of non compliance with the Heritage Act.

Prior to the listing a toilet was approved by a Heritage architect in the Fuel Store of the Head Lightkeeper's Quarters. The Heritage Council has advised that we must now submit a Section 60 application, which Heritage may, or may not approve. The Trust will abide by the ruling of the Heritage Council.

A work bench was removed from the Head Lightkeeper's Store and stored safely in the Flag Locker, pending refurbishment of the Store when the bench will be incorporated in the furnishings. Please note that the work bench is not listed as a heritage item in the Plan of Management.

The Trust can think of no other instances where misunderstanding may have occurred regarding work on the site.

Intervention by a member of Parliament

Mr David Harris MP wrote to the Trust and advised that we must ensure that we comply with the Heritage Act. There is no question that the Trust is willing to comply with the Heritage Act. Ms Jill Hall MHR made representations after a request by someone from the local Norah Head community.

Dedicated to the preservation, conservation and management of the Norah Head Lighthouse Reserve

Chairperson: Cr Ron Stevens	4396 4515, 0407 434 547
Secretary: Jacquie Spring	4333 5720, 0409 991 813
Treasurer/Solicitor: David Prior	4367 4366, 0434 517 577

8 August 2007
To the Ordinary Meeting of Council

Corporate Services Department

Answers to Questions Without Notice (contd)

Q063 – Norah Head Lighthouse Trust (Attachment 1) (contd)

Trust resignations

Three Trust members resigned in November 2006. The honorary grants officer resigned in late January 2007. The Trust cannot divulge the contents of their resignation letters without their permission. Eight Trust members remain, plus three honorary members making eleven in all.

Yours sincerely

Cr Ron Stevens
Chair

8 August 2007
To the Ordinary Meeting of Council

Corporate Services Department

Answers to Questions Without Notice (contd)

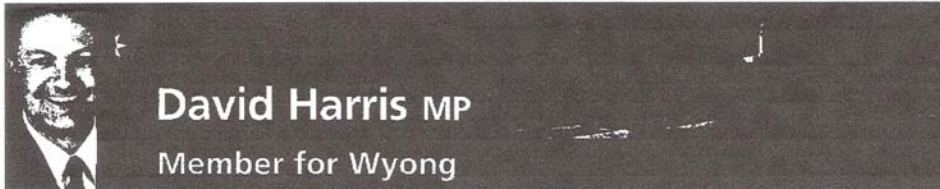
Q063 – Norah Head Lighthouse Trust (Attachment 1) (contd)

U2 Jul 07 06:26p

Ron Currie-Jacque Spring

U2 43355720

p.1



REF:nhigh70629.let

Cr Ron Stevens
Chair
Norah Head Lighthouse Reserve Trust
PO Box 7021
TOOWOON BAY NSW 2261

29 June 2007

Dear Cr Stevens

As you are aware the Norah Head Lightstation Precinct has been listed on the State Heritage Register (SHR). The listing was published in Government Gazette No 51, on 13 April 2007.

I am advised that due to this listing, the NSW Heritage Council require the submission of a Section 60 application for any proposed alterations or additions to the Precinct.

Yours sincerely

A handwritten signature in black ink, appearing to read "D. Harris".

DAVID HARRIS MP
Member for Wyong



8 August 2007
To the Ordinary Meeting of Council

Corporate Services Department

Answers to Questions Without Notice (contd)

Q063 – Norah Head Lighthouse Trust (Attachment 2)



The General Manager
Wyong Shire Council
PO Box 20
Wyong NSW 2259

Contact Officer: John Filocamo
Telephone: (02) 8836 5313
email: john.filocamo@lands.nsw.gov.au

5 July 2007

Attention: Mr K Yates

Dear Sir

Re: Norah Head Lighthouse Reserve Trust

I understand that a Councillor has raised a question concerning the management of the Norah Head Lighthouse Crown reserve by the current reserve trust board.

The Trust Board currently comprises members of the community, ex-officio representatives, which includes Councillor Ron Stevens as Council's representative and myself as the department's representative. My role is to assist the trust undertaking this important management responsibly of this iconic reserve.

The current trust board has made some significant achievements over the past five years.

More recently it has made some significant achievements, which include

- A communication strategy that includes a website and a newsletter that informs the local community and the broader community of its activities. This has not only raised the profile of the reserve but that of the whole Central Coast.
- More robust and transparent financial management systems.
- Has had considerable works undertaken by the Workwise employment scheme.
- Made a number of funding applications for works on the reserve.
- Put in place a modernised and professional booking system for rental of the cottage.
- Planned for key community events to be held on the reserve. This has included the whale watching day and the Catholic Church World Youth day to be held this month. More community events are planned.
- Training of a dedicated and valued group of volunteers to undertake lighthouse tours.
- Increased revenue to the trust from tours of the lighthouse. This has only been made possible with the assistance of a team of dedicated volunteers.

The trust has now commenced planning and review to set priorities for the next trust term. These priorities are based on the Plan of Management adopted by the Minister for Lands, which are entirely consistent with the recent Heritage listing of the reserve.

Sydney Metropolitan Office – Crown Lands Division
Level 12, 10 Valentine Street, Parramatta NSW 2124
PO Box 3935, Parramatta NSW 2124
Telephone: 8836 5300 Facsimile: 8836 5365
www.lands.nsw.gov.au



8 August 2007
To the Ordinary Meeting of Council

Corporate Services Department

Answers to Questions Without Notice (contd)

Q063 – Norah Head Lighthouse Trust (Attachment 2) (contd)

In relation to the recent community concerns raised about the location of the proposed toilets, the trust has resolved to consider all the alternative locations for the toilet on the reserve and seek the advice from a specialist heritage architect before lodging the final proposal with the Heritage Council for approval. This action is entirely appropriate and highlights the trust willingness to communicate and listen to the local community's concerns.

The above achievements clearly indicate that the trust is doing an excellent job of managing the reserve. In my view the trust has performed in a professional manner and should be commended for their tireless efforts towards the management of this reserve. I look forward to working with the new trust and the continued cooperation from Council.

If you wish to discuss this matter further please contact me on 0413 304 788.

Yours Faithfully



John Filocamo
Regional Program Manager, Land Administration
Sydney Hunter Region

Answers to Questions Without Notice (contd)

Q064 – Flood Damage to Chandlers Lane, Wyong Creek

Asked by Councillor Eaton at the Ordinary Meeting held on 11 July 2007
F2004/05305, F2007/00900

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

Chandlers Lane is a rural road that adjoins Yarramalong Road. The road services approximately nine properties before it eventually becomes an unformed road (a 'paper road') prior to the Ourimbah State Forest.

Council is the designated road authority for the first 1 km of the road. The Crown is the designated road authority for the remainder of the road, which includes a section of formed road that provides property access.

As the designated road authority, Council maintains the section of road it is responsible for approximately four times a year. This section of the road is considered to be in acceptable condition for the type and volumes of traffic using it. It is not proposed to increase the level of maintenance or undertake any immediate upgrade / repair works to this section of Chandlers Lane.

The remainder of the formed Crown road is in poor condition. Any work on this section of road would be the responsibility of the property owners.

Council's Roads and Drainage Section has contacted the Wyong Disaster Recovery Centre regarding available avenues to fund repairs to this Crown section of Chandlers Lane. The Wyong Disaster Recovery Centre has previously contacted the State Disaster Recovery Centre with respect to available funding for property owners with similar requests, and a response is yet to be received.

At this time, without a response from the State Disaster Recovery Centre, both Council's Roads and Drainage Section and the Wyong Disaster Recovery Centre are unable to suggest avenues to fund repair work.

Residents are advised to make personal representation to the Wyong Disaster Recovery Centre regarding future funding.

8 August 2007
To the Ordinary Meeting of Council

Shire Planning Department

Answers to Questions Without Notice (contd)

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

Asked by Councillor Eaton at the Ordinary Meeting held on 11 July 2007
F2004/13054

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

A Councillor Briefing from representatives of the RTA, including the Regional Manager, was scheduled for 1 August 2007 to update Council on the Pacific Highway Wyong upgrade.