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## WYONG SHIRE COUNCIL

### REPORTS TO THE ORDINARY MEETING OF COUNCIL TO BE HELD IN THE COUNCIL CHAMBER, WYONG CIVIC CENTRE, HELY STREET, WYONG ON WEDNESDAY, 9 APRIL 2008, COMMENCING AT 5.00 PM

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#### *INDEX*

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	Opening Prayer	
	Receipt of Apologies	
143	Disclosures of Interest .....	3
144	Proposed Inspections .....	4
145	Proposed Briefings.....	5
146	Address by Invited Speakers.....	6
147	Confirmation of Minutes of Previous Meeting.....	7
	 <u>Planning Reports</u>	
148	82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale.....	28
	 <u>Property Reports</u>	
149	Proposed Acquisitions of Private Land Part Lot 0 SP 6571 and Part Lot A DP 364571 Corner Ocean Parade and Fairport Avenue, The Entrance for a Roundabout .....	42
	 <u>General Reports</u>	
150	Exhibition of Draft 2008/09 Management Plan .....	46
151	Development Servicing Plan No. 15 - Water Supply and Sewerage for Lot 401 in DP 1058215 within the Gorokan District.....	55
152	Amended Schedule of Ordinary Meetings 2008.....	59
153	Supportership/Sponsorship of Graffiti Hurts - Australia .....	60

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## ORDINARY MEETING OF COUNCIL

9 APRIL 2008

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### *INDEX (contd)*

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	<b><u>Information Reports</u></b> .....	<b>73</b>
154	<b>Schedules of Bank Balances and Investments – January &amp; February 2008</b> .....	<b>74</b>
155	<b>Outstanding Questions Without Notice and Notices of Motion</b> .....	<b>83</b>
	<b>Answers to Questions Without Notice</b> .....	<b>88</b>
	<b><u>Notices of Motion</u></b>	
156	<b>Notice of Motion - Upgrade of Pacific Highway Roundabout at Wyong Road, Tuggerah</b> .....	<b>92</b>
157	<b>Notice of Motion - Corridor for Future Rail Track Upgrades</b> .....	<b>93</b>
158	<b>Notice of Motion – Chikarovski Report</b> .....	<b>94</b>

**WYONG SHIRE COUNCIL**

9 April 2008  
To the Ordinary Meeting of Council

General Manager's Report

**143 Disclosures of Interest**

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F2008/00003 ED:MR

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

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

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

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

**RECOMMENDATION**

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

## WYONG SHIRE COUNCIL

9 April 2008  
To the Ordinary Meeting of Council

General Manager's Report

### 144 Proposed Inspections

F2008/00003 ED:MR

#### SUMMARY

Inspections proposed to be held on 23 April 2008 and prior to the second Ordinary Meeting are listed as follows:

Date of Inspection	Location	Requested By
23 April 2008	Eastern Road Stage 3A (+Drainage) – Tumbi Umbi – Roads and Drainage Rehabilitation	Director Shire Services
23 April 2008	Toowoomba Bay Road / Nirvana Street / Pacific Street Stage 2 (+Drainage) – Long Jetty – Roads and Drainage Rehabilitation	Director Shire Services
23 April 2008	Torrens Avenue – The Entrance – Capital Works Drainage	Director Shire Services
23 April 2008	Bush Street Stage 2 – Norah Head - Roads and Drainage Rehabilitation	Director Shire Services
23 April 2008	Brisbane Street (87 Kelsey Road) – Noraville – Capital Works Drainage	Director Shire Services
23 April 2008	Panorama Avenue Stage 5B (+Drainage) – Charmhaven - Roads and Drainage Rehabilitation	Director Shire Services

#### RECOMMENDATION

***That the report on inspections to be conducted on Wednesday, 23 April 2008 be received and the information noted.***

## WYONG SHIRE COUNCIL

9 April 2008  
To the Ordinary Meeting of Council

General Manager's Report

### 145 Proposed Briefings

F2008/00003 ED:MR

#### SUMMARY

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

Date	Briefing	Description	Time	Presented by
9 April 2008	Business Central Coast	Proposal by BCC for funding	11.00 am-12 noon	Kerry Ruffels, Manager, BCC
9 April 2008	Investments Update	Consultant to present an insight into recent market volatility and Council's Investment Portfolio	12 noon-1.00 pm	Director Corporate Services with Andrew from Grove
9 April 2008	Wyong Shire Community Profile	Working with Consultants to provide an interactive research tool on Council's website for use by staff and the community based on the 2006 Census	1.00 pm-2.00 pm	Council's Social Planner with Consultants
9 April 2008	Draft Management Plan	Questions and comments from Councillors prior to consideration of draft Management Plan at Ordinary Meeting (9/4/08)	2.00 pm-3.00 pm	Manager Economic/Corporate Planning

#### RECOMMENDATION

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

9 April 2008  
To the Ordinary Meeting of Council

General Manager's Report

**146**                      **Address by Invited Speakers**

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F2008/00003 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 Director's and General Manager reports to be dealt with following the speaker's address.*

**WYONG SHIRE COUNCIL**

9 April 2008  
To the Ordinary Meeting of Council

General Manager's Report

**147 Confirmation of Minutes of Previous Meeting**

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F2008/00003 ED:MR

**SUMMARY**

Confirmation of minutes of the previous Ordinary Meeting of Council held on 26 March 2008.

**RECOMMENDATION**

*That the minutes of the previous Ordinary Meeting of Council held on 26 March 2008 be received and confirmed.*

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**WYONG SHIRE COUNCIL**  
**MINUTES OF THE**  
**ORDINARY MEETING OF COUNCIL**  
**HELD IN THE COUNCIL CHAMBER**  
**WYONG CIVIC CENTRE, HELY STREET, WYONG**  
**ON WEDNESDAY, 26 MARCH 2008,**  
**COMMENCING AT 4.04 PM**

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**PRESENT**

COUNCILLORS W J WELHAM (CHAIRPERSON), G P BEST, D J EATON, K M FORSTER, R L GRAHAM (ARRIVED AT 4.31 PM), B J PAVIER, N T ROSE, R E STEWART, R C STEVENS AND C W VEUGEN.

**IN ATTENDANCE**

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

THE MAYOR REPORTED THAT:

- \* HE MET WITH THE US CONSUL GENERAL TO SYDNEY, JUDITH FERGIN, WHEN SHE VISITED WYONG SHIRE TO OFFICIALLY OPEN THE 33<sup>RD</sup> CENTRAL COAST FESTIVAL OF ARTS ON FRIDAY 14 MARCH 2008 AND I HAVE BEEN INVITED TO VISIT JUDITH IN SYDNEY ON 21 APRIL 2008.
- \* A HIGHLY SUCCESSFUL PHOTOGRAPHIC COMPETITION WAS ALSO HELD IN CONJUNCTION WITH CENTRAL COAST ARTS FESTIVAL.
- \* THE ROTARY CLUB OF TOUKLEY PRESENTED COUNCIL WITH A TOKEN OF APPRECIATION FOR OUR CONTINUED INVOLVEMENT.
- \* IT WAS WITH DEEP REGRET THAT I HEARD OF THE PASSING YESTERDAY OF TRISHA TICEHURST AFTER A LONG ILLNESS, COUNCIL SENDS ITS SINCERE CONDOLENCES TO KEN AND HIS FAMILY, FUNERAL TO BE HELD TOMORROW AT PALMDALE AT 1.30 PM.

COUNCIL OBSERVED A ONE MINUTE SILENCE IN REMEMBRANCE OF TRISHA TICEHURST.

THE MAYOR, COUNCILLOR W J WELHAM, DECLARED THE MEETING OPEN AT 4.04 PM, ADVISED THAT THE MEETING IS BEING RECORDED AND PASTOR JOHN BETTS DELIVERED THE OPENING PRAYER.

**APOLOGY**

THERE WERE NO APOLOGIES BUT IT WAS NOTED THAT COUNCILLOR GRAHAM WAS ABSENT AT THE START OF THE MEETING.

AT THE COMMENCEMENT OF THE ORDINARY MEETING REPORT NOS 115 AND 117 WERE DEALT WITH FIRST 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 26 March 2008 (contd)**

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### **111 Disclosures of Interest**

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F2008/00003 ED:MR

#### **117 PROPOSED WHOLESALE AND RETAIL PLANT NURSERY AND ASSOCIATED FACILITIES AT LOT 2 DP 1100181 BUNDEENA ROAD, GLENNING VALLEY**

COUNCILLOR ROSE DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A BOARD MEMBER OF THE HUNTER CENTRAL RIVERS CATCHMENT MANAGEMENT AUTHORITY (HCRCMA) AND THAT WYONG SHIRE COUNCIL HAS ENTERED INTO A CONTRACT WITH THE HCRCMA FOR THE ADJOINING LOT OF LAND. THE CONTRACT IS FOR A VALUE OF \$450,000 AND THE REPORT INDICATES THAT THE PROPOSED DEVELOPMENT COULD IMPACT ON THE REQUIREMENTS OF THIS CONTRACT. THIS COULD COMPROMISE THE PUBLIC'S VIEW THAT HE MADE A DECISION IN A FAIR AND OBJECTIVE MANNER, LEFT THE CHAMBER AT 5.11 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.53 PM.

#### **128 ITEM WA013 OF THE GOSFORD/WYONG COUNCIL'S WATER AUTHORITY BOARD MEETING – 20 FEBRUARY 2008**

COUNCILLOR EATON DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE EFFLUENT PIPELINE IS PROPOSED ALONG HIS FAMILY COMPANY'S LAND AT MANNERING PARK, LEFT THE CHAMBER AT 7.12 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.15 PM.

#### **129 MINUTES OF COMMUNITY BENEFIT GRANTS PANEL - 13 MARCH 2008**

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF THE ITEMS, THE G.O.A.T.S. FESTIVAL, LISTS THE GOROKAN-KANWAL LIONS CLUB AS A SUPPORTER OF THE PROJECT IN THEIR APPLICATION AND HE IS A MEMBER OF THE LIONS CLUB, AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I HAVE NO DIRECT INVOLVEMENT WITH THE G.O.A.T.S. FESTIVAL ORGANISATION."*

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

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

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**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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**112 Proposed Inspections**

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F2008/00003 ED:MR

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 4.45 PM AND RETURNED TO THE CHAMBER AT 5.08 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST LEFT THE CHAMBER AT 4.45 PM AND RETURNED TO THE CHAMBER AT 5.23 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

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

**113 Proposed Briefings**

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F2008/00003 ED:MR

COUNCILLOR BEST LEFT THE CHAMBER AT 4.45 PM AND RETURNED TO THE CHAMBER AT 5.23 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

***That the amended report be received and the information noted.***

**114 Address by Invited Speakers**

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F2008/00003 ED:MR

COUNCILLOR BEST LEFT THE CHAMBER AT 4.45 PM AND RETURNED TO THE CHAMBER AT 5.23 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 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.***

**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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

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F2008/00003 ED:MR

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

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

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

**W007 - Waterfront Tourist Park, Canton Beach**

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

**CONFIDENTIAL SESSION**

AT THIS STAGE OF THE MEETING BEING 4.10 PM COUNCIL MOVED INTO CONFIDENTIAL SESSION WITH THE PRESS AND THE PUBLIC EXCLUDED.

**OPEN SESSION**

COUNCIL RESUMED IN OPEN SESSION AT 5.00 PM AND THE GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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

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DA/2338/2005 DL

- 1 *That the report and legal advice be received and the information noted.*
- 2 *That the General Manager be authorised to determine the legal proceedings.*

**W007 Waterfront Tourist Park, Canton Beach**

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F2008/00345 GSM:LS

- 1 *[Confidential Resolution – see note below].*
- 2 *[Confidential Resolution – see note below].*
- 3 *[Confidential Resolution – see note below].*

NOTE: THE PRECISE DETAIL CONTAINED IN THIS RESOLUTION IS WITHHELD IN ACCORDANCE WITH THE PROVISIONS OF THE LOCAL GOVERNMENT ACT AND THE FREEDOM OF INFORMATION ACT AND IS NOT AVAILABLE FOR RELEASE AT THIS TIME.

**116 Confirmation of Minutes of Previous Meeting**

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F2008/00003 ED:MR

COUNCILLOR BEST LEFT THE CHAMBER AT 4.45 PM AND RETURNED TO THE CHAMBER AT 5.23 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

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

**BUSINESS ARISING FROM THE MINUTES**

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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

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DA/611/2006 DAL:DAL

COUNCILLOR ROSE DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A BOARD MEMBER OF THE HUNTER CENTRAL RIVERS CATCHMENT MANAGEMENT AUTHORITY (HCRCMA) AND THAT WYONG SHIRE COUNCIL HAS ENTERED INTO A CONTRACT WITH THE HCRCMA FOR THE ADJOINING LOT OF LAND. THE CONTRACT IS FOR A VALUE OF \$450,000 AND THE REPORT INDICATES THAT THE PROPOSED DEVELOPMENT COULD IMPACT ON THE REQUIREMENTS OF THIS CONTRACT. THIS COULD COMPROMISE THE PUBLIC'S VIEW THAT HE MADE A DECISION IN A FAIR AND OBJECTIVE MANNER, LEFT THE CHAMBER AT 5.11 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.53 PM.

COUNCILLOR BEST LEFT THE CHAMBER AT 4.45 PM AND RETURNED TO THE CHAMBER AT 5.23 PM DURING CONSIDERATION OF THIS ITEM.

MS CAROLINE DONNELLY, RESIDENT, ADDRESSED THE MEETING AT 5.12 PM, ANSWERED QUESTIONS AND RETIRED AT 5.23 PM.

MR MALCOLM ROSE, APPLICANT/PARTNER REPRESENTING GLENNING VALLEY PARTNERSHIP, ADDRESSED THE MEETING AT 5.23 PM, ANSWERED QUESTIONS AND RETIRED AT 5.47 PM.

MR MARK TOOKER, RESOURCE INFRASTRUCTURE MANAGER REPRESENTING WORLEYPARSONS AND ENERGY, ANSWERED QUESTIONS AT 5.41 PM AND RETIRED AT 5.43 PM.

DR STEPHEN AMBROSE, DIRECTOR REPRESENTING AMBROSE ECOLOGICAL SERVICES PTY LTD, ANSWERED QUESTIONS AT 5.44 PM AND RETIRED AT 5.48 PM.

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

- 1 That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours refusal of the application for the reasons outlined in the report and for reasons of use impermissibility.***
- 2 That those who made written submissions be advised of the decision.***
- 3 That staff identify other possible sites within the Shire that could cater for such a mega plant business.***

**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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THE MEETING WAS ADJOURNED AT 6.48 PM AND RESUMED AT 6.53 PM.

COUNCILLORS VEUGEN AND BEST WERE ABSENT AFTER THE RESUMPTION:

COUNCILLOR VEUGEN RETURNED TO THE CHAMBER AT 7.02 PM DURING CONSIDERATION OF ITEM 112.

COUNCILLOR BEST RETURNED TO THE CHAMBER AT 7.07 PM DURING CONSIDERATION OF ITEM 127.

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

***That report numbers 118, 119 and 120 of the Ordinary Meeting of Council be dealt with by the exception method.***

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

***That with the exception of report number 118 the reports be received and the recommendations adopted.***

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

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CPA/130591 LM

COUNCILLOR BEST LEFT THE CHAMBER AT 7.02 PM AND RETURNED TO THE CHAMBER AT 7.07 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 Council accept Tender No 9 from SMEC Pty Ltd in the combined lump sum and schedule of rate amount of \$280,984 including GST (\$255,440 excluding GST).***
- 2      That Council approve a contingency amount of \$28,100 including GST (\$25,545.45 excluding GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.***

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**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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

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CPA/136486 LM

COUNCILLOR BEST LEFT THE CHAMBER AT 7.02 PM AND RETURNED TO THE CHAMBER AT 7.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That Council accept Tender No 2 from Maunsell Australia Pty Ltd in the combined lump sum and schedule of rates amount of \$164,052.90 including GST (\$149,139 excluding GST).***
- 2 That Council approve a contingency amount of \$16,405 including GST (\$14,914 excluding GST), representing approximately 10% of the contract value, to provide for any additional works that may become necessary during the course of the project.***

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

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CPA/137955 BW

COUNCILLOR BEST LEFT THE CHAMBER AT 7.02 PM AND RETURNED TO THE CHAMBER AT 7.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That Council accept Tender No 2 from C&W Constructions Pty Ltd in the lump sum amount of \$1,090,672 including GST (\$991,520.00 excluding GST).***
- 2 That Council approve a contingency amount of \$110,000.00 including GST (\$100,000.00 excluding GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.***

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

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F2007/01688 JMT

COUNCILLOR BEST LEFT THE CHAMBER AT 7.02 PM AND RETURNED TO THE CHAMBER AT 7.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

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



**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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

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F2007/01595 SB

COUNCILLOR BEST LEFT THE CHAMBER AT 7.02 PM AND RETURNED TO THE CHAMBER AT 7.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That Council acquire an easement for drainage four (4) metres wide over Lot 9 Section 9 DP 758779.**
- 2 That Council authorise the payment of compensation, if necessary, for the acquisition of the easement in Item 1 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.**
- 3 That Council proceed to compulsorily acquire the easement in the event that negotiations with the property owner cannot be satisfactorily resolved.**
- 4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Transfer and/or Plan and to any necessary applications to the Department of Local Government for the approval of the Minister and the Governor in order to proceed with the compulsory acquisition.**
- 5 That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer and/or Plan and all documents relating to the applications to the Department of Local Government.**

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

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F2007/01898 SB

COUNCILLOR BEST LEFT THE CHAMBER AT 7.02 PM AND RETURNED TO THE CHAMBER AT 7.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That Council release the Easement for Water Main three (3) metres wide affecting Lot 10 DP 25355 for an amount of compensation to be determined by a qualified valuer and agreed to between the parties.**

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**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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- 2 ***That Council authorise the affixing of the Common Seal of Wyong Shire Council to the Transfer Releasing Easement.***
- 3 ***That Council authorise the execution of all documents relating to the Transfer Releasing Easement by the Mayor and the General Manager.***

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

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F2007/01913 PF

COUNCILLOR BEST LEFT THE CHAMBER AT 7.02 PM AND RETURNED TO THE CHAMBER AT 7.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

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

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

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F2004/06023 LS/CAM

COUNCILLOR BEST LEFT THE CHAMBER AT 7.02 PM AND RETURNED TO THE CHAMBER AT 7.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

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

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**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**


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**126 Blue Haven Neighbourhood Centre**


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F2005/02949 KS

COUNCILLOR BEST LEFT THE CHAMBER AT 7.02 PM AND RETURNED TO THE CHAMBER AT 7.07 PM DURING CONSIDERATION OF THIS ITEM.

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

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

**127 Polling Places**


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F2007/01531 JB:JB

THE MAYOR READ A STATEMENT FROM BRIAN DECELIS OF THE NSW ELECTORAL COMMISSION:

*“THE CONSULTATION PROCESS UNDERTAKEN BY THIS OFFICE IN THE REVIEW OF POLLING PLACES PROPOSED FOR THE SEPTEMBER 2008 LOCAL COUNCIL ELECTION WAS UNDERTAKEN IN GOOD FAITH TO ALLOW THE OPPORTUNITY FOR COUNCIL AND TO OFFER TIMELY AND CONSTRUCTIVE COMMENT.*

*AS I MENTIONED IN MY EARLIER EMAIL, THIS OFFICE VISITED AND INSPECTED THE COUNCIL'S PROPOSALS IN THE SAN REMO AREA WHERE, IF COUNCIL'S PROPOSAL WAS ADOPTED, THE PREMISES AND THE CAR PARKING FACILITIES WOULD NOT COPE. ON THE BASIS OF THAT EXAMPLE, THERE IS THE LIKELIHOOD THAT MANY OR ALL OF THE OTHER PROPOSALS FROM COUNCIL ARE NOT ACCEPTABLE.*

*THIS OFFICE DOES NOT FIND IT APPROPRIATE TO ENTER INTO DIRECT NEGOTIATIONS WITH ELECTED REPRESENTATIVES ON MATTERS PERTAINING TO THE CONDUCT OF THE ELECTION. WHEREAS I ACKNOWLEDGE THE MAYOR'S INVITATION TO ADDRESS COUNCIL, IT WOULD NOT BE APPROPRIATE TO DO SO.*

*AGAIN I POINT OUT THAT THE ELECTORAL COMMISSIONER'S PRIMARY CONSIDERATION IS TO THE ELECTOR AND, ON THE EVIDENCE TO DATE, THE CURRENT PROPOSAL AND IMPACT ON ELECTORS IS UNACCEPTABLE.*

*THIS OFFICE CONTINUES TO DIVERT RESOURCES ONTO THIS MATTER AND, AS INDICATED EARLIER, THIS NEEDS TO BE RESOLVED BY THE END OF NEXT WEEK IN ORDER TO MEET OUR PLANNED TIMETABLE FOR SUPPLYING COUNCILS WITH ITEMISED BUDGETS.*

*IF A SATISFACTORY RESOLUTION IN CONJUNCTION WITH YOUR COUNCIL IS NOT FOUND BY THE END OF NEXT WEEK THE COMMISSIONER HAS INDICATED THAT THE ORIGINAL PROPOSAL WILL BE APPLIED WITHOUT ANY FURTHER CONSULTATION WITH COUNCIL.”*

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

***That the information from the Electoral Commission be noted.***

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**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**


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


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F2004/06808 SW

COUNCILLOR EATON DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE EFFLUENT PIPELINE IS PROPOSED ALONG HIS FAMILY COMPANY'S LAND AT MANNERING PARK, LEFT THE CHAMBER AT 7.12 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.15 PM.

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

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

**129 Minutes of Community Benefit Grants Panel – 13 March 2008**


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F2005/01881 JV

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF THE ITEMS, THE G.O.A.T.S. FESTIVAL, LISTS THE GOROKAN-KANWAL LIONS CLUB AS A SUPPORTER OF THE PROJECT IN THEIR APPLICATION AND HE IS A MEMBER OF THE LIONS CLUB, AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I HAVE NO DIRECT INVOLVEMENT WITH THE G.O.A.T.S. FESTIVAL ORGANISATION."*

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

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

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**Information Reports**


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***The information reports were dealt with by the exception method with Report No 135 called for debate.***

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**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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**130           Activities of the Development Assessment Unit**

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F2004/07830 NL:NL

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

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

**131           Results of Water Quality Testing for Bathing Beaches**

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F2004/06822 JS:JS

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

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

**132           Finalisation of Contracts**

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F2005/03113 GJP/ GJP

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

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

**133           Wyong Shire Library Statistics**

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F2004/11651 JM

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

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

**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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**134 Works in Progress Report – Water and Sewerage**

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F2004/07830 KRG:DP

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

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

**135 General Works in Progress Report**

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F2004/07830 JEM

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

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

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

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F2008/00003 MW:SW

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

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

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

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F2004/00210

COUNCILLOR FORSTER LEFT THE CHAMBER AT 8.03 PM AND RETURNED TO THE CHAMBER AT 8.06 PM DURING CONSIDERATION OF THIS ITEM.

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

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

**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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An **AMENDMENT** was **MOVED** by Councillor **ROSE** and **SECONDED** by Councillor **STEVENS**:

*That Council's website be updated to include a page on Councils' opposition to the proposed Wallarah 2 Coalmine.*

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

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

**The AMENDMENT was put to the vote and declared CARRIED on the casting vote of the Mayor.**

**The AMENDMENT became the MOTION.**

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

*That Council's website be updated to include a page on Councils' opposition to the proposed Wallarah 2 Coalmine.*

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

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

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

**138 Notice of Motion – Affordable Housing Summit**

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F2004/09609

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

*That Council convene a summit to examine ways to achieve a significant price reduction in new housing and land costs.*

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**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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**139 Notice of Motion – 2007 Warnervale Rail Station**

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DA/26/2005

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 8.28 PM AND RETURNED TO THE CHAMBER AT 8.30 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That staff report to Council on the key issues still surrounding the delay of the Warnervale Rail Station Development Application currently before Council.**
- 2 That staff also report to Council a separate report on the key issues surrounding the delay of the infrastructure outlined in the transport action plan.**

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

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F2004/06144

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

- 1 That further to the increased community concerns regarding the scheduling of maintenance works related to Open Space/Parks, staff report on the adequacy of the current scheduling and targets achieved.**
- 2 That Council recognise the efforts of staff in delivering the various maintenance programs, particularly having regard to urban expansion and current resource levels.**

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

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F2004/00468

MR LEWIS JOHNSON, RESIDENT, ADDRESSED THE MEETING AT 7.20 PM, ANSWERED QUESTIONS AND RETIRED AT 7.36 PM.

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

- 1 That staff report on the number of parking infringement notices and their total value issued by Council over the past two years.**



## **Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

---

- 2 *That Council in co-operation with the State Government Process Infringement Bureau investigate and report whether there is scope to establish a PFRP, with a view to providing a mechanism for our residents and ratepayers with extenuating circumstances, an avenue of appeal other than the costly and often lengthy court process. The report should also canvass issues of financial management.*
- 3 *That Council recognise the efforts of staff in delivering the often contentious infringement management program.*

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

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

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

### **142 Notice of Motion – Leadership Consultant’s Program**

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F2004/07000

COUNCILLOR GRAHAM LEFT THE CHAMBER AT 8.33 PM AND RETURNED TO THE CHAMBER AT 8.34 PM DURING CONSIDERATION OF THIS ITEM.

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

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

***The report should include;***

- \* ***detailed costings for the consultants including fees, travel, accommodation, meals and other incidentals.***
- \* ***positions of staff members and total numbers of staff involved in the program.***
- \* ***benchmark criteria used to assess the success or otherwise of this program.***
- \* ***an explanation as to why this program has not been subject to public tender requirements.***
- \* ***the justification used in renewing the program on a reportedly three monthly basis.***
- \* ***the credentials of those involved in delivering the program.***

**Minutes of the Ordinary Meeting of Council held on 26 March 2008 (contd)**

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- \* *examples, if any, of their work in other Local Government areas.*
- \* *what outcomes have been achieved from staff participating in this program.*
- \* *what percentage of staff, that have participated in this program are still employed by Wyong Shire Council.*
- \* *that given the budgetary impact of this program on the 2008/2009 Management Plan, this report be included in the Council Business Paper for the meeting of 28 May 2008.*

**QUESTIONS WITHOUT NOTICE ASKED****Q021 - Development Application Trends****Councillor Eaton**

F2004/12148

*“Could Council prepare a graph showing Development Application number trends with local and state unemployment levels over the last 10 years?”*

**Q022 - Shortfall in Construction Costs of the Mardi Mangrove Link****Councillor Eaton**

F2007/01128

*“Could Council advise on the funding proposals for the shortfall in construction costs of the Mardi Mangrove Link compared to Federal Government Grants?”*

**Q023 - Agreement with Central Coast Tourism Inc****Councillor Stewart**

F2004/12356

*“Could I please be advised if the agreement with Central Coast Tourism Inc for the The Entrance Visitors Centre has been signed and if Council has received any payment for the rental?”*

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 8.37 PM.

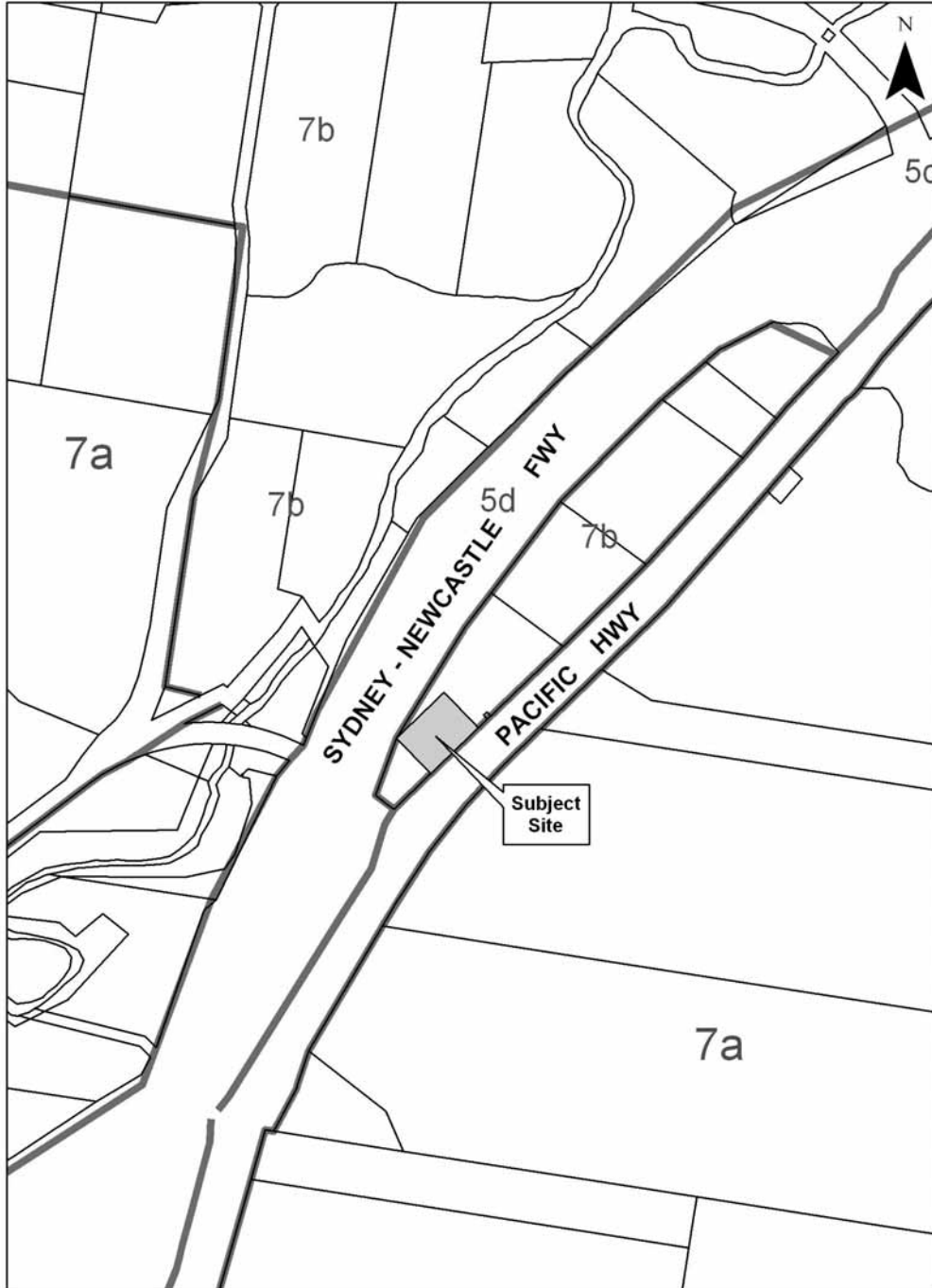
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CHAIRPERSON

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**148                    82A Review of Proposed Service Station - Lot 1 DP 1104659  
Pacific Highway, Palmdale  
(Attachment 1)**

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**Locality Plan**



## WYONG SHIRE COUNCIL

9 April 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

### **148                    82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale**

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DA/2120/2006 MLG:MLG

#### **SUMMARY**

An application under Section 82A of the Environmental Planning and Assessment Act 1979 has been received requesting Council's reconsideration of a determination for refusal issued for a service station proposal on conservation zoned land at Palmdale. The site has a long and detailed history, with the latest application refused in August 2007 because the applicant was unsuccessful in proving that the land enjoyed existing use rights.

<b>Applicant</b>	Longhill Planning
<b>Owner</b>	Palmdale Service Centre Pty Ltd
<b>Application No</b>	DA/2120/2006
<b>Description of Land</b>	Lot 1 DP 1104659 Pacific Highway, Palmdale
<b>Proposed Development</b>	Service Station
<b>Site Area</b>	2789 sq m
<b>Zoning</b>	7(b) Scenic Protection
<b>Existing Use</b>	Vacant land
<b>Estimated Value</b>	\$300,000

#### **RECOMMENDATION**

- 1     *That the application for reconsideration under Section 82A not be supported and Council adhere to the previous decision to refuse the application.***
- 2     *That those who made written submissions be advised of the decision.***

#### **PRECIS**

- An application under Section 82A of the Environmental Planning and Assessment Act, 1979 has been lodged requesting review of Council's previous decision to refuse a development application for a service station.
- The application relies on the "Existing Use Rights" provisions in the Environmental Planning and Assessment Act for permissibility. A service station is a prohibited use in the 7(b) Scenic Protection Zone.
- The previous service station on the site has been inoperative for longer than 12 months and thus the site has no "Existing Use Rights", making the development a prohibited use in the zone.
- It is recommended that Council adhere to the previous decision to refuse the application.

**82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway,  
Palmdale (contd)**

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**INTRODUCTION****The Site**

The subject site is located on the Pacific Highway at Palmdale with the rear of the land adjoining the Sydney-Newcastle freeway. The land is in a slender strip of 7(b) Scenic Protection zoning between the highway and freeway.

The site for a number of years contained a vehicle service station which has since been removed with no remaining buildings or obvious infrastructure on site. There is no evidence of an existing on-site waste water management system and the most recent site audit report states that underground storage tanks were removed between 1998 and 2000. The buildings, bowsers and hardstand areas were demolished in November 2004.



*Subject site in centre of aerial view*

## **82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale (contd)**

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### **The Proposed Development**

The subject application (refused in 2007) sought approval to establish a service station on the subject allotment under the auspices of existing use provisions in the Environmental Planning and Assessment Act (EP&A Act). A brief history of applications over the site is provided further in this report.

The current application proposes to construct a new service station including a restaurant and convenience store. The Statement of Environmental Effects recognises that the use is prohibited within the 7(b) zone but contends that the existing use provisions of Section 107 of the EP&A Act have not been abandoned and thus permit the establishment of a new service station. In refusing the application, Council determined that the existing use rights had been abandoned for a period of greater than 12 months and therefore Council was unable to approve a prohibited land use within the zone.

It is important to note that the onus of proof that existing use rights apply to the land rests with the applicant, while the decision of abandonment of such existing uses lies with Council as the determining authority. There are generally two key aspects, apart from historic approvals that legally establish the land use, that need to be considered in assessing whether a site enjoys existing use rights; is there anything physical that proves the ongoing land use and if not, is there any clear intent (in a non physical way) that can prove existing use rights? It is Council's assessment that the site does not benefit from existing use rights as the use has been abandoned.

In recognition of Council's determination of refusal of DA/2120/2006, the applicant lodged a request for reconsideration under Section 82A of the EP&A Act. This report re-examines the issues associated with DA/2120/2006 with particular regard to supporting documentation accompanying the applicant's request.

**82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale (contd)**

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**HISTORY**

The following table provides a history of applications relevant to the subject land.

February 1974	Council approves amendment to expand existing approved service station and cafe (DA 74/27) under Wyong Planning Scheme Ordinance. Zone at time is Non Urban "B" and usage is prohibited. Application approved under existing use rights - service station.
March 1989	Council approves amendment to add office extensions to existing approved service station and café (DA 106/89).
September 1989	Council approves amendment for underground storage tanks to existing approved service station and café (DA 634/89).
August 1993	EPA and Council approval to operate and on site waste water management system, including a disposal site area 1680m <sup>2</sup> located on adjoining lot under legal agreement.
December 1997	Council file notes that service station closed down December 1997 (assessment report DA 194/98).
May 1998	Council approves decommissioning of fuel storage tanks and relocation of septic tanks to within property boundary (DA 194/98).
December 1998	Council refuses application for the use of the existing building for a motor vehicle repair station (DA 2195/98). Refusal based on lack of onsite wastewater management system, suitability of the site and lack of suitable remediation of the site.
8 June 1999	DA 1327/99 for Motor Vehicle Repair Station approved.
2 April 2001	Applicant requests an extension to the consent due to a dispute between the proprietor and the tenant.
17 May 2002	Applicant requests an extension of time for development consent for DA 1327/99.
27 May 2002	Council grants a further extension of 12 months to the consent for DA 1327/99.
8 June 2003	Consent for DA 1327/1999 lapses.
14 October 2004	DA 2251/2004 to demolish service station was approved. No construction certificate required for demolition alone, building subsequently demolished in November 2004.



**82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale (contd)**

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22 October 2004	<p>DA 1360/2004 for Motor Vehicle Repair Station refused for the following reasons.</p> <p><i>Pursuant to Section 79C (1) (a) (i) of the Environmental Planning and Assessment Act, 1979 the existing use rights as defined by Section 107 (2) (e) of the said Act, for the proposed use of the site as a "Motor Vehicle Repair Station" as defined by Wyong Local Environmental Plan 1991, are considered to have been abandoned due to continued inactivity on the site and as an issue of fact that the premises are in a state of complete dilapidation and could not be used for any purpose as a continuance of use.</i></p> <p><i>Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act, 1979, the proposed use is prohibited within the 7(b) Scenic Protection Zone under Wyong Local Environmental Plan 1991.</i></p> <p><i>Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act, 1979, approval of the continuance of use of this site would not be in the public interest.</i></p>
February 2005	<p>S.82A application to review decision was confirmed as a refusal by Development Assessment Panel.</p>
30 August 2007	<p>Council refuses an application for a "Service Station" under DA 2120/2006 for the following reasons:</p> <p><i>Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 existing use rights has not been established and hence the proposed use is prohibited.</i></p> <p><i>Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, adequate sewer servicing is not available to the land or the proposed development as required by Clause 29 of the Wyong Local Environmental Plan 1991.</i></p> <p><i>Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered suitable for the site.</i></p>

**STATUTORY PLANNING REQUIREMENTS**

**Wyong Local Environmental Plan 1991 (WLEP)**

The proposed development is defined as a "Service Station" under Clause 7 – "Definitions" of WLEP. A service station being a building or place that sells fuel or other petroleum based products and can include other vehicle based services.

**82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale (contd)**

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The subject land is zoned 7(b) – *Scenic Protection* under Clause 10 – “Zone Objectives and Development Control Table” of WLEP. The objectives of the zone are to restrict the type and scale of development being carried out on land possessing scenic values.

The defined use is however a prohibited land use in the 7(b) zone. In order to establish the development, approval had been sought using “existing use rights” as provided under the EP&A Act.

**Environmental Planning and Assessment Act 1979**

Sections 106 – 109B of the EP&A Act address “existing use rights” which defines an existing use as the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would have the effect of prohibiting that use.

Section 107 outlines the continuance of and limitations on existing uses:

- (1) *Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.*
- (2) *Nothing in subsection (1) authorises:*
  - (a) *any alteration or extension to or rebuilding of a building or work, or*
  - (b) *any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
  - (c) *without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*
  - (d) *the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 80A (1) (b), or*
  - (e) *the continuance of the use therein mentioned where that use is abandoned.*
- (3) *Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*

Part 2(e) of Section 107 states that nothing in Part 1 authorises the continuance of a use where that use has been abandoned. Part 3 of Section 107 sets the time limit at which a use is deemed to be abandoned at 12 months. A use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.

## **82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale (contd)**

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In the case of this property, the site has been left unused for approximately 10 years, in spite of DA/1327/99 in which Council gave consent for the use of the site as a "Motor Vehicle Repair Station". However, development consent based on existing use rights does not alone automatically continue the existing use rights, the site has to be physically utilised for such purpose. In this case, the owners of the site are viewed as having abandoned the existing use rights bestowed on the site by the EP&A Act, subject to Part 2(e), as the consent lapsed and the site has not been utilised for approximately 10 years. Given the condition of the site, ie buildings demolished and underground tanks removed, the site is not in a state where the use could operate.

### **SECTION 82A REVIEW of DA 2120/2006**

On 10 January 2008, the applicant lodged a written request for Council to reconsider the refused determination for DA/2120/2006. Under Section 82A of the EP&A Act, the applicant is entitled to request the consent authority to review of the determination of the original development application.

The following part of this report details the applicant's Section 82A submission concerning the reasons for refusal and Council's review of the submission.

#### **Reason for refusal No 1**

- 1 *Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 existing use rights has not been established and hence the proposed use is prohibited.*

#### **Applicant's Response**

*"We ask the Council to accept that:*

- a *Existing use rights continue to apply to the site.*
- b *The use has never been abandoned; and*
- c *There exists in Council's own files significant evidence of the owners intention to redevelop the site post execution of decontamination works as required by lease agreements with the former tenant (Caltex).*

*In addition, we note the fact that Council has acknowledged "existing use" of the site by granting consent to previous applications."*

**82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale (contd)**

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**Comment**

In the original assessment of DA/2120/2006, the applicant provided legal advice stating that whether or not an existing use has been abandoned depends upon the "subjective intention" of the use of the land, and that the subjective intention is to be ascertained, at least in part, by having regard to objective criteria. The advice then went on to consider specific case law dealing with the determination of existing use rights matters and in particular, reference to subjective intention. The argument can be summarised as stating that although a premises may be vacant, the owner may be seeking another tenant and are being held to be used for that purpose.

Recent judgements in the Land and Environment Court specifically *Caltex Australia Petroleum Pty Ltd vs Manly Council* (a service station at Seaforth in Manly City Council area) however, make it quite clear that when considering the subjective intention this must be weighed against the objective circumstances suggesting abandonment. In that particular situation, the Court ruled that the removal of underground petrol tanks and the remediation of the site prevented the physical use of the site in Seaforth as a service station. This is clearly a similar circumstance to the current application before Council. In the *Caltex v Manly* court case, the argument of existing use rights was based on the applicant's intent to use the land for the proposed purpose more so than anything physically establishing a land use. A key factor in the court's finding was the reference to the remediation of the site including removal of the fuel tanks which effectively rendered the site as not capable of being used as a service station.

At the time of the original assessment of DA/2120/2006, staff consulted briefly with Council's solicitors and received advice that insufficient information had been provided to demonstrate that subjective intention could be supported, particularly in view of the removal of the fuel tanks and the site remediation. The current Section 82A review of DA/2120/2006 does not present any fresh legal argument to change the opinion held by Council in determining the application in 2007.

In terms of "intent" it is interesting to note that the development application form for approved DA/2251/2004 identified that the proposed development (of that particular application) was "Demolition of Existing Buildings" with a sub reference on the form under the heading of *existing land development/use* as a "former service station that has been decommissioned". This appears to contradict the applicant's argument of intent. As a side note to demolition, once a building is demolished, it cannot be rebuilt under its original development consent, a fresh application is necessary.

In conclusion, when the specifics of the situation are considered, particularly the length of time since any actual use of the site and the fact that a previous development consent based on existing use rights was extended by Council without being enacted, it is clear that under Section 107(3) the applicant has not rebutted the presumption of abandonment. Therefore, as the existing use rights have been abandoned, Council has no legal ability to approve an application for a service station in the 7(b) zone.

## **82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale (contd)**

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### **Reason for refusal No 2**

- 2 *Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, adequate sewer servicing is not available to the land or the proposed development as required by Clause 29 of the Wyong Local Environmental Plan 1991.*

### **Applicant's Response**

*"Amendments to the proposal by the deletion of the car wash component has the benefit of:*

- a Removing that area of hardstand from the site.*
- b Reducing the intensity of use and activity; and*
- c Providing additional site area within which waste water disposal systems can be accommodated."*

### **Comment**

The original application included a car wash facility. The plans accompanying the Section 82A review have deleted this component. Connection to the sewer could be an expensive option; the nearest sewer service is about 1.10km away.

The applicant proposed to utilise an existing on-site waste water management licence (OSSM1/2062/1999), however it appears this system is not in-situ. An amended plan was submitted, but failed to show any location for such an on-site waste water management system, thus there does not appear to be sufficient area on the subject site to manage the expected loads, and no detail regarding the volumes and type of waste water to be generated has been submitted in support of the application. Deleting the car wash facility assists in reducing the overall impact of site disposal, however, there is no fresh evidence that the service station which is not connected to the sewer can support on-site waste disposal.

This particular situation is of greater relevance given that the subject site is located within a water catchment area.

Therefore, the development has no satisfactory arrangements for the provision of sewage management which is contrary to the LEP provisions (Clause 29) which requires that all development provides land with adequate provision for sewer.

**82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale (contd)**

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**Reason for refusal No 3**

- 3 *Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered suitable for the site.*

**Applicant's Response**

*"Nothing within your third reason for refusal establishes any argument as to why the site is unsuitable for the intended use; a use that was entirely suitable since the early 30's in providing motor fuel services and refreshments to the travelling public.*

*The volume of traffic within that area the (Old) Pacific Highway has increased since the initial reduction following the opening of the F3 Freeway to a level now where local demand as gauged by the proprietors of the land as sufficient to justify a service station of the nature proposed; a facility that will service local traffic between the northern suburbs of Gosford shire and the southern parts of Wyong shire choosing to utilise the Pacific Highway as an alternative to the F3 Freeway."*

**Comment**

The basis of the third reason for refusal centres on the unsuitability of the land to accommodate waste disposal, particularly of the kind anticipated with development such as the service station.

The applicant contends that the site has been used for the proposed purpose since the 1930's (Council records are unable to verify this date – also note site disused since 1997) however the assessment of environmental impact has undergone dramatic changes through the latter part of the 20<sup>th</sup> century to the present time. Effluent disposal is an integral part of assessing just how a development impacts on the environment. What may have been a satisfactory on-site method of waste treatment years ago is required to be considered against present day environmental and planning legislation requirements. As noted in the previous comment for the second reason for refusal, the extent of waste investigation did not prove conclusively that the site had appropriate characteristics to provide for on-site disposal.

## **82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale (contd)**

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The applicant also contends that the site is suitably placed to attract clientele due to the ideal visual location between the freeway and the highway. Whether there is a demand for such a service in that specific location is difficult to prove without a comprehensive economic assessment which has never been undertaken with any development proposals on the land. In this regard no particular weight is placed on the economic viability of the land. Should the applicant wish to pursue the development of the site for a service station, the appropriate process that should be followed would involve a request by the applicant for the site to be considered for rezoning as part of the Comprehensive LEP Review. A process has been established to enable individual property owners to lodge requests with Council for the zoning status of their land to be reviewed as part of the LEP Review. This process requires the applicant to lodge a submission accompanied by relevant studies, information and fees. In this instance, the applicant would need to include a comprehensive economic study which would assess the appropriateness and viability of the site for a service station.

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

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with two submissions being received at the original assessment date. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the EP&A Act.

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

<b>Doc. No</b>	<b>Summary of Issues</b>	<b>Response</b>
D00770462	Pollution to Ourimbah Creek	The submission raises concern over the proximity of the site to the Ourimbah Creek with regard to potential pollution to water supply and wildlife. This aspect is a valid issue considering that this report has already noted that the development has not satisfactorily demonstrated that appropriate on-site waste disposal methods can be adopted without environmental damage. Although Ourimbah Creek is on the west side of the freeway (opposite to the subject site, being on the east side) the service station site is effectively in the water catchment of the creek and thus if waste disposal has not been resolved then there is doubt as to whether the development has an acceptable presence in the area.

**82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway, Palmdale (contd)**

Doc. No	Summary of Issues	Response
	Traffic and noise and rural land quality	<p>The submission raises the concern over increased traffic and associated noise in an area regarded as having a rural ambience.</p> <p>The subject land is in a scenic protection zone. Being wedged between a major freeway and highway may appear to suggest that the land has limited scenic values, however the value of the land when viewed from most directions may be best suited with a less obtrusive nature of development than a commercial service station.</p>

**CONCLUSION**

The original assessment of DA/2120/2006 determined that the proposed development could not be supported due to the abandonment of existing use rights and the inability to provide appropriate servicing to the site.

Without existing use rights, the application fails in the legal sense and Council has no power to approve the application. The existing use provisions within the planning legislation provide an applicant with the opportunity to demonstrate whether an approved land use can continue or recommence in a zone that would normally prohibit such a use.

In reviewing Council's determination, the evidence provided by the applicant specifically regarding the argument of "intention to use the land" (in this case as a service station) has been re-examined. The applicant contended that there was sufficient documentation on record that demonstrated the applicants' intent to continue with the service station proposal. Council's determination of abandonment is supported by *Caltex Australia Petroleum Pty Ltd vs Manly Council* (noted earlier in this report) where a key factor in the courts findings was the reference to the remediation of the site and removal of the fuel tanks, actions that effectively rendered the site as being unable to be used as a service station and the court held that the use had been abandoned.



9 April 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

**82A Review of Proposed Service Station - Lot 1 DP 1104659 Pacific Highway,  
Palmdale (contd)**

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Similar action was taken at the subject site at Palmdale. The site was remediated by removing the fuel tanks in addition to demolishing all the buildings that had previously been occupied as the service station. On this basis, Council's assessment is that existing use rights have been abandoned and the service station use is prohibited.

It is therefore recommended that the application under Section 82A not be supported and Council adhere to the previous decision to refuse the application.

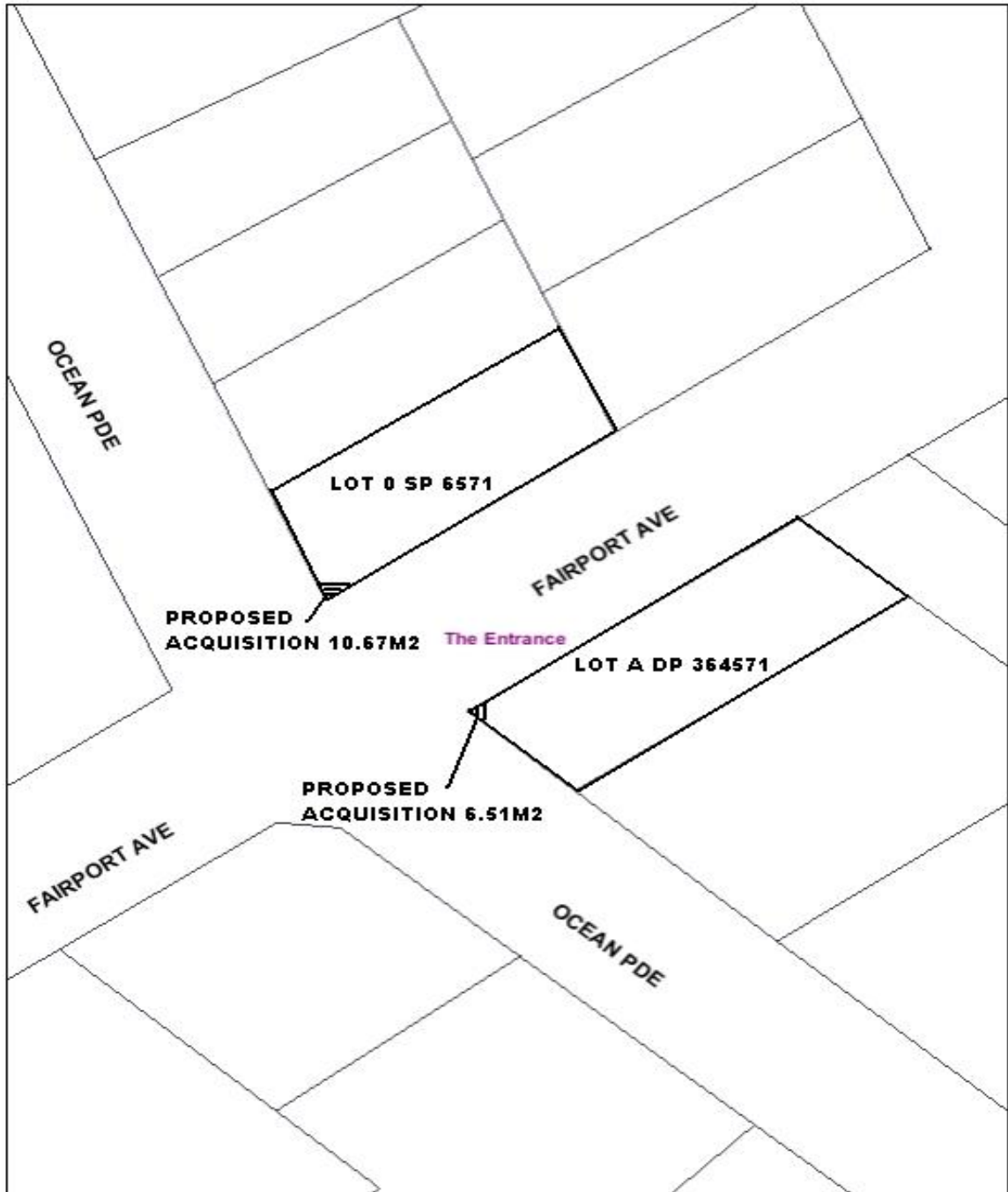
***Attachment 1***                      ***Locality Plan (1 page)***

***Enclosures***                      ***Site Plan***

**149 Proposed Acquisitions of Private Land Part Lot 0 SP 6571 and Part Lot A DP 364571 Corner Ocean Parade and Fairport Avenue, The Entrance for a Roundabout (Attachment 1)**

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**Plan of Proposed Acquisition Ocean Parade / Fairport Avenue**



## WYONG SHIRE COUNCIL

9 April 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**149                    Proposed Acquisitions of Private Land Part Lot 0 SP 6571 and  
Part Lot A DP 364571 Corner Ocean Parade and Fairport  
Avenue, The Entrance for a Roundabout**

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F2008/00520 and F2008/00521 (SB)

### SUMMARY

Authority is sought to acquire part of Lot O SP 6571 and part of Lot A DP 364571 at the corner of Ocean Parade and Fairport Avenue, The Entrance as public road for the construction of a roundabout.

### RECOMMENDATION

- 1     *That Council acquire part of Lot 0 SP 6571 and part of Lot A DP 364571 at the corner of Ocean Parade and Fairport Avenue, The Entrance as public road.***
- 2     *That Council authorise the payment of compensation if necessary for the acquisition of the land in Item 1 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.***
- 3     *That Council proceed to compulsorily acquire the land in Item 1 in the event that negotiations with the property owners cannot be satisfactorily resolved.***
- 4     *That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Transfer and/or Plan and to any necessary applications to the Department of Local Government for the approval of the Minister and the Governor in order to proceed with the compulsory acquisition.***
- 5     *That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer and/or Plan and all documents relating to the applications to the Department of Local Government.***

### BACKGROUND

Council proposes to construct a roundabout at the intersection of Ocean Parade and Fairport Avenue, The Entrance to improve the amenity and safety of the road at this location.

Associated with the construction of the roundabout it is necessary to acquire splay corner parts of Lot 0 SP 6571 and Lot A DP 364571 at the corner of Ocean Parade and Fairport Avenue as public road.

**Proposed Acquisitions of Private Land Part Lot 0 SP 6571 and Part Lot A DP 364571 Corner Ocean Parade and Fairport Avenue, The Entrance for a Roundabout (contd)**

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Lot 0 SP 6571 has an area of approximately 540.46 square metres and the road widening has an area of approximately 10.67 square metres. Lot 0 SP 6571 is zoned 2C Medium Density Residential.

Lot A DP 364571 has an area of approximately 656.41 square metres and the road widening has an area of approximately 6.51 square metres. Lot A DP 364571 is zoned 2C Medium Density Residential.

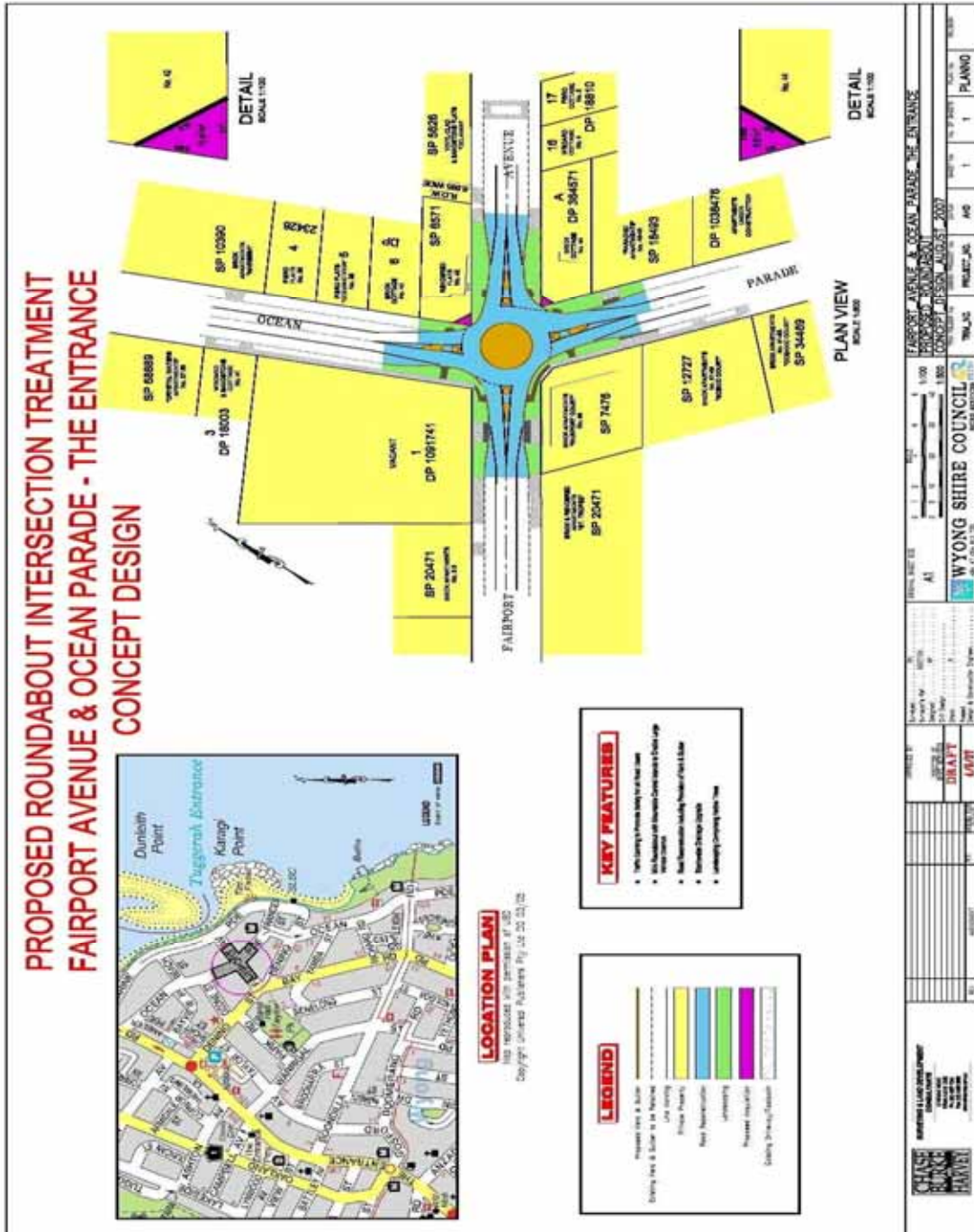
The owners of the land have been advised of the proposal and negotiations are proceeding for the proposed acquisition.

The proposed roundabout at the intersection of Ocean Parade and Fairport Avenue forms part of The Entrance District Traffic Management Plan which was adopted in February, 2002. One of the aims of a traffic management plan is to concentrate traffic along major collector routes and to provide traffic controls and calming along these routes. Roundabouts such as that proposed are proven effective traffic calming devices reducing traffic speed.

- |                     |  |
|---------------------|--|
| <b>Attachment 1</b> | <b><i>Plan of proposed acquisition Ocean Parade / Fairport Avenue hatched (1 page)</i></b> |
| <b>Attachment 2</b> | <b><i>Concept Design Ocean Parade / Fairport Avenue (1 page)</i></b>                       |

**Proposed Acquisitions of Private Land Part Lot 0 SP 6571 and Part Lot A DP 364571 Corner Ocean Parade and Fairport Avenue, The Entrance for a Roundabout (Attachment 2)**

**Concept Design Ocean Parade / Fairport Avenue**



**150                      Exhibition of Draft 2008/09 Management Plan**

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F2004/07006 BR

**SUMMARY**

Section 405 of the *Local Government Act 1993* requires Council to place its Draft Management Plan on public exhibition for 28 days.

**RECOMMENDATION**

***That the Draft 2008/09 Management Plan be adopted for the purpose of public exhibition in accordance with Section 405 of the Local Government Act 1993.***

**BACKGROUND**

The Draft 2008/09 Management Plan has been prepared in accordance with the *Local Government Act 1993*.

In the absence of an adopted long-term strategy, Council's Management Plan has traditionally incorporated both longer-term strategic and shorter-term planning elements.

In late 2007 Council resolved to develop a "Shire Strategic Vision" to set the direction for our community over the next 20 years. A key component of the Shire Strategic Vision process is the community determining what the Shire could and should look like in 20 years time. It is anticipated that the Shire Strategic Vision document will be completed in mid-2009.

This Draft Management Plan represents a short-term slice of Council's longer-term strategy. It provides information to the community (and direction to staff) about Council's activities and strategic direction.

The Management Plan outlines Council's key programmes, performance measures, and resources requirements. It also incorporates information relating to Council's budget and Revenue Policy for the coming year.

The Draft 2008/09 Management Plan includes an expenditure budget of \$360m - the largest ever proposed by Council and an increase of \$17m over 2007/08. This increase is a result of Council utilising developer contributions and securing additional grant funds to undertake significant projects – in particular: capital works to enhance the region's water supply system and secure it for the future; road construction; and the implementation of the Estuary Management Plan. Details of these significant expenditure items are detailed later in this report.

## **Exhibition of Draft 2008/09 Management Plan (contd)**

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A major risk to the financial result forecast in the 2008/09 Management Plan is the uncertainty surrounding developer contributions (or Section 94 contributions) as a source of funds. The State Government has proposed changes to restrict the types of facilities for which contributions can be collected and place restrictions and time limits on the spending of those funds. This would be a particular problem for growth areas like Warnervale.

The Draft Management Plan demonstrates that Council continues to manage its finances responsibly and maintains a stable and sustainable financial position. It is widely acknowledged that many local government authorities are under significant financial pressure and this is exacerbated by State Government activities such as cost shifting to councils, rate pegging, the increased costs of legislative compliance and reductions in levies for developers.

### **Format**

The Draft 2008/09 Management Plan is presented in a two- volume format to enhance the readability of the comprehensive information about Council's activities that it contains.

Volume I provides details of Council's Key Focus Areas, strategic directions, strategic targets and performance measures. It also includes the financial forecasts for the coming year and the rolling works programme.

A key focus of this year's Management Plan is Council's commitment to community pride – demonstrated through the re-direction of resources to enhance the appearance of the Shire and by Council working in partnership with the community to *build a better tomorrow!*

Volume II contains the Revenue Policy that details the proposed rates and annual charges for 2008/09, as well as a schedule of proposed fees.

### **Inflation**

Traditionally Council has inflated its non-salary expenditure budgets based on the forecast for the Consumer Price Index (CPI). This is in line with the current rate pegging methodology of the State Government that calculates rate increases based on the average of the Consumer Price Index (CPI) and the index of Average Weekly Ordinary Time Earnings (AWOTE).

However, the Local Government Association of NSW and the Shires Association of NSW have found that *"alone these indices do not appear to reflect the changing structure of Council costs and when considered jointly have not moved consistently with movements in local government expenses"*.

**Exhibition of Draft 2008/09 Management Plan (contd)**

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It is clear that the real rate of increase in costs for Council's activities significantly exceeds both CPI and the rate pegging limit. It is therefore considered that Council should always, as a minimum, increase rates in line with the rate pegging limit as, even then, this will not keep up with the real increases in costs.

In developing the draft 2008/09 financial forecasts inflation has been estimated at 3.5%.

**Rates and Charges*****Ordinary Rates***

The rating proposals for Ordinary Rates, detailed in the 2008/09 Draft Management Plan, have been calculated on an estimated rate pegging limit of 3.5% pending the determination by the Minister for Local Government.

In 2008/09 Council will be using the same property valuations as were used in 2006/07 for the calculation of ordinary rates, as the NSW Valuer-General's Department only undertakes property revaluations every three to four years for local government rating purposes.

***Special Rate - The Entrance Town Centre***

It is proposed to continue the special rate on all non-residential properties in The Entrance for 2008/09 and increase it by the Minister's rate pegging determination (estimated at 3.5%). It will apply to:

- All land categorised and used for business purposes in the suburb known as The Entrance.
- All land used as Major Facilities servicing tourists including Service Stations, Camp or Caravan Sites, Registered Clubs, Tourist Accommodation and Hotels/Motels as defined in Council's current Local Environmental Plan (LEP) and District Shopping Centres as defined in Council's current Retail Strategy in the suburbs known as The Entrance North, The Entrance, Blue Bay, Long Jetty, Toowoan Bay, Shelly Beach, Bateau Bay and Magenta.
- All land used as rental accommodation that is rented or leased for periods of three months or less in the suburbs known as The Entrance North, The Entrance, Blue Bay and Toowoan Bay.

***Special Rate - Non-Residential Properties Toukley Area***

It is proposed to continue special rate on all non-residential properties in the Toukley/Canton Beach/Noraville/Norah Head areas for 2008/09 and increase it by the Minister's rate pegging determination (estimated at 3.5%).



## **Exhibition of Draft 2008/09 Management Plan (contd)**

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### ***Special Rate - Non-Residential Properties Wyong Area***

It is proposed to continue the special rate on all non-residential properties in the Wyong/North Wyong/Watanobbi areas for 2008/09 and increase it by the Minister's rate pegging determination (estimated at 3.5%)

### ***Stormwater Levy***

It is proposed to continue the Stormwater Levy in 2008/2009. The Stormwater Levy applies to the urban area of the Shire – defined as the area to the east of the F3 Freeway plus the Highway Service Centre and any industrial-zoned land to the west of the Freeway. Vacant properties (i.e. those without impervious surfaces) are not subject to this levy.

The Stormwater Levy is used to fund the ongoing implementation of the Estuary Management Plan. Additional funds for the implementation of this Plan in 2008/09 are also provided from operational surpluses from Council's Holiday Parks and a Federal Government Grant of \$20m over five years.

The implementation of the Estuary Management Plan will continue to target the most important issues for the health of the lakes to ensure a sustainable future for the Shire's waterways.

### ***Domestic Waste Management Charge***

The proposed domestic waste management charge for 2008/09 is \$295 a proposed increase of 5% (or \$14) over 2007/08. The increase above the estimated inflation rate is due to the increase in the Environmental Protection Authority (EPA) Waste Levy - which is a charge levied by the State Government. This charge is increasing by \$8.40 per tonne in 2008/09 – a 26.6% increase.

The proposed charges for 2008/09 are as follows:

<b>Service</b>	<b>2008/09 Proposed Charge Per annum (\$)</b>	<b>2007/08 Current Charge Per annum (\$)</b>
Domestic Waste Charge	<b>295.00</b>	281.00
Domestic Waste - West Freeway	<b>239.00</b>	227.00
Domestic Waste - Additional Garden Bin	<b>71.00</b>	69.00
Domestic Waste - Additional Waste Bin	<b>141.00</b>	N/A
Domestic Waste - Additional Recycling Bin	<b>54.00</b>	N/A
Domestic Waste - Additional Split Bin	<b>N/A</b>	170.00

**Exhibition of Draft 2008/09 Management Plan (contd)****Commercial Waste Charges**

The proposed commercial bulk bin service charges for 2008/09 are as follows:

<b>Bin Size</b>	<b>2008/09 Proposed Charge Per annum (\$)</b>	<b>2007/08 Current Charge Per annum (\$)</b>
140 Litre	<b>167.00</b>	N/A
240 Litre	<b>265.00</b>	265.00
660 Litre	<b>858.00</b>	N/A
1.1 cubic metre	<b>1,330.00</b>	1,265.00
1.5 cubic metre	<b>1,802.00</b>	1,700.00
3.0 cubic metre	<b>3,573.00</b>	3,400.00

**Water Supply and Sewerage Service Charges**

Wyong Shire Council is constituted as a Water Supply Authority under the *Water Management Act 2000 No 92* and charges for water and sewer are levied under this Act. As a Water Authority, Council's water and sewerage charges are subject to approval by the Minister for Energy and Utilities, following determination by the Independent Pricing and Regulatory Tribunal (IPART).

In May 2006 IPART handed down a three-year price determination for Water Supply and Sewerage Services. Water and sewerage charges included in Volume 2 of the proposed Draft 2008/09 Management Plan are in line with this IPART determination.

Council, as a Water Supply Authority, is not required to place its water and sewer charges on public exhibition because the price path is set by IPART after a public consultation process. However Council, since the introduction of the *Local Government Act 1993*, has included water and sewer charges in its Management Plan public exhibition process.

A summary of the water and sewerage price increases determined by IPART for 2008/09 is below:

	<b>2008/09 Charge</b>	<b>2007/08 Charge</b>
Water Usage Charge	\$1.67 per KI	\$1.38 per KI
Water Service Charges (access)	\$114.19	\$110.97
Sewer Service Charges (access)	\$413.07	\$397.53
Sewer Usage Charges	\$0.7419 per KI	\$0.71 per KI
Trade Waste Charges	Existing +CPI	Existing +CPI
Miscellaneous Charges	Existing +CPI	Existing +CPI

Note: The IPART forecast for CPI is 2.9%.

## **Exhibition of Draft 2008/09 Management Plan (contd)**

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### **Typical Residential Ratepayer**

The impact of the proposed increases in rates and annual charges on the 'typical' residential ratepayer in Wyong Shire (based on a median property value of \$187,000) and water usage of 139KI per annum (which is the average residential demand for all residences) is shown in the table below.

The overall increase of 5.8% for the typical residential ratepayer is the result of price increases that are beyond Council's control – in particular the EPA Waste Levy and water and sewerage charges.

As noted above the EPA Waste Levy is a charge levied by the State Government and has increased by 26.6% in 2008/09 (or an additional \$4.40 per year for the typical residential ratepayer).

Council's water and sewerage charges are subject to approval by the Minister for Energy and Utilities, following determination by the Independent Pricing and Regulatory Tribunal (IPART).

	<b>2007/08 (\$)</b>	<b>2008/09 (\$)</b>	<b>Increase in \$</b>	<b>Increase as a %</b>
<i>Median Property Valuation</i>	187,000	187,000		
General Rates	643.29	665.87	22.58	3.5%
Water Availability	110.97	114.19	3.22	2.9%
Sewerage	397.53	413.07	15.54	3.9%
Domestic Waste	281.00	295.00	14.00	5.0%
Stormwater Levy	25.00	25.00	0	0%
<b>Sub-Total</b>	<b>1,457.79</b>	<b>1,513.13</b>	<b>55.34</b>	<b>3.8%</b>
Water Usage (139KI)	191.82	232.13	40.31	21.0%
<b>Total</b>	<b>1649.61</b>	<b>1,745.26</b>	<b>95.65</b>	<b>5.8%</b>

### **Child Care Services**

In March 2007 the consulting firm, Families at Work - Work / Life Specialists, undertook a review of Council's Child Care services to assess the implementation of recommendations from their assessment of operations carried out in May 2005. This review confirmed that the majority of recommendations had been implemented and that there were little or no opportunities for further operating gains.

**Exhibition of Draft 2008/09 Management Plan (contd)**

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Council's 2007/08 budget for Child Care operations forecast a \$100,000 loss (subsidised by Council). Due to active management of staffing levels to complement the actual utilisation of each centre, Council is on track to improve on this budgeted position in 2007/08.

The Draft 2008/09 Management Plan forecasts a breakeven position for Child Care operations. (Note that in calculating a "breakeven" position the following items are excluded: non-cash and indirect expenses such as depreciation, building maintenance expenses, corporate support overheads, non-cash National Competition Policy notional land tax, payroll tax and target return on capital).

To achieve this breakeven position in 2008/09 fees are proposed to increase by 5.6% for 0-2 year-olds (to \$65 per day) and by 5.0% for 3-5 year olds (to \$58 per day).

In the past child care fees across the board have typically increased by more than the CPI. Council's fees currently place it in the middle of market for child care centres in the Shire, with other centres charging between \$55 and \$75 per day.

Council is to some extent a price-setter in the market – with many private and community-run centres waiting until Council determines its fees for the coming year and then adjusting theirs in line with the Council-run centres.

**Significant Expenditure Items****Water & Sewerage Capital Works**

The Draft 2008/09 Draft Management Plan includes water and sewerage capital works programme of \$101.7m to undertake the following projects:

**Water Supply**

- Mardi-Mangrove Transfer System
- Mardi Dam Transfer
- Mardi High Lift Pump Station.
- Mardi-Warnervale Trunk Main
- Purchase of water from the Hunter Water Corporation
- Effluent re-use and groundwater projects, and Mardi temporary high lift pump station.
- Rebate programmes for rainwater tanks and washing machines
- Contribution to NSW Government Water Savings Fund

**Sewerage Services**

- Warnervale Town Centre sewerage trunk mains.

## **Exhibition of Draft 2008/09 Management Plan (contd)**

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### **Road Construction**

#### **Main Roads**

The Draft 2008/09 Management Plan includes \$4.9m for work undertaken on the State Roads within Wyong Shire.

The 2008/09 budget includes a \$1.7m contribution for the upgrading of the Pacific Highway at Tuggerah. Council is required to contribute to these works in accordance with the RTA policy on state roads: "Arrangement with Councils for Road Management". Council's contribution represents an apportionment of costs in relation to providing kerb and gutter, footpaths/cycleways, parking spaces, stormwater drainage and sewer as part of the upgrade works.

Other works to be undertaken include the maintenance contract for State roads and maintenance of the landscaped areas on Wyong Road and Sparks Road.

#### **Secondary Road Construction**

The major road construction project for 2008/09 is Railway Road Warnervale (Link Rd) – a single carriageway from Watanobbi to Sparks Rd – with budgeted expenditure of \$26.5m in next financial year. This project is funded from developer contributions and, as noted earlier, there have been changes proposed by the State Government to this legislation (Section 94 of the Environmental Planning & Assessment Act) that may put this funding source at risk.

### **Holiday Parks Improvement Works**

2008/09 includes major improvement works at a total cost of \$1.4m in line with the adopted Business Strategy for Holiday Parks. The proposed capital works include:

- Toowoan Bay – cabin refurbishment and camp kitchen;
- Norah Head – bunkhouse accommodation, pool and landscaping;
- Canton Beach – cabin refurbishment and landscaping; and
- Budgewoi – camp kitchen.

### ***Estuary Management Plan***

\$6.7m has been allocated in the Draft 2008/09 Management Plan for implementation of the Tuggerah Lakes Estuary Management Plan. This amount is made up of \$1.7m from the Stormwater Levy, \$4m in Federal Grant funding and a \$1m contribution from the surpluses from Holiday Park operations

Works to be undertaken in 2008/09 include construction, planning and maintenance of stormwater treatment measures and drainage systems in urban areas, around and lake edges and in coastal areas; works to redress the impacts of stormwater on bushland and natural wetlands; restoring rivers and creeks; improving boat access to rivers and improving lakeside recreation facilities; and undertaking community stormwater pollution education campaigns.

**Exhibition of Draft 2008/09 Management Plan (contd)**

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**Open Space Capital Improvements**

The Draft 2008/09 Management Plan includes \$5.6m for open space capital improvements, with most of that amount allocated to Stage 2 of Woongarra Sporting Fields (which are expected to become operational in April 2010).

**Community Building Construction**

The Draft 2008/09 Management Plan includes \$3.3m for new community buildings, with most of that amount allocated to Stage 2 of The Entrance Multi-Purpose Community Facility (scheduled for completion in February 2009).

**Budget Result**

The draft budget included in Volume I of the Management Plan forecasts a breakeven position for 2008/09 (with a projected budget surplus of \$1,000).

This result may be impacted during the public exhibition period (for example when the Minister announces the rate pegging limit) and any changes in the forecast result will be reported when the Management Plan is referred back to Council for adoption.

**Public Exhibition**

The Draft Management Plan is required to be publicly exhibited for 28 days. It is proposed that the public exhibition period will be from Wednesday 16 April to Wednesday 14 May 2008. During the exhibition period, copies of the draft plan will be made available for viewing at the Civic Centre in Wyong, at Council's Library and Information Centres, and on Council's website.

In addition a Community Briefing will be conducted on Thursday 1 May 2008 to explain the Draft 2008/09 Management Plan.

Following the exhibition period and the consideration of submissions, it is anticipated that Council will adopt the 2008/09 Management Plan on 11 June 2008.

**Enclosure**

***Draft 2008/09 Management Plan Volume I (Distributed under separate cover)***

***Draft 2008/09 Management Plan Volume II (Distributed under separate cover)***

**WYONG SHIRE COUNCIL**

9 April 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Services Department

**151                    Development Servicing Plan No. 15 - Water Supply and  
                                 Sewerage for Lot 401 in DP 1058215 within the Gorokan District**

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F2007/01228: IN:IN

**SUMMARY**

Report is seeking approval to exhibit the newly created Development Servicing Plan No. 15 for Lot 401 in DP 1058215 Burnet Rd at Warnervale that is located within the Gorokan District and adopt the new charges for water supply and sewerage as of July 1 2008.

**RECOMMENDATION**

- 1            *That the draft Development Servicing Plan No. 15 related to Lot 401 in DP 1058215 be placed on public exhibition for thirty (30) working days.***
- 2            *That should no significant objections be received as a result of the public exhibition, the draft Development Servicing Plan No, 15 related to Lot 401 in DP 1058215 be adopted and appropriate public notice be given.***
- 3            *That the new water supply and sewerage contributions related to Lot 401 in DP 1058215 to be effective as of 1 July 2008.***

**BACKGROUND**

Lot 401 in DP 1058215 Burnet Rd at Warnervale falls within the Development Servicing Plan for the Gorokan District. However, due to high water supply and sewerage demands being generated from a wet industry development proposed for this site, a new Development Servicing Plan has been created to set contribution charges for water supply and sewerage specifically to this site. Contributions, as set in this report will be used for the purpose of serving notice on the developer for the payment of costs for the construction of water supply and sewerage infrastructure in accordance with the Water management Act 2000.

The Development Servicing Plan No. 15 has been prepared in accordance with the Independent Pricing and Regulatory Tribunal (IPaRT) of NSW Determination No. 9 dated September 21 2000. The DSP incorporates the relevant parameters from the above Determination which relate to the income and operating surplus calculations within the DSP indexed to June 2008.

**Development Servicing Plan No. 15 - Water Supply and Sewerage for Lot 401 in DP 1058215 within the Gorokan District - (contd)**

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Development Servicing Plan No.15 has been prepared to provide water and sewerage services to the development on Lot 401 in DP 1058215 within the Gorokan District as are shown on social Plan 11484B-1 water supply and social Plan 11484B-2 for sewerage. Assets forming the basis upon which contributions are calculated are detailed in the following plans:

- 1 Plan No. 11081 shows water supply capital works (Major Assets).
- 2 Plan No. 11485A sheets 1 to 5 and 7 to 15 inclusive and Plan No. 11485B sheet 6 shows water supply capital works (Minor Assets).
- 3 Plan No. 11083 shows sewerage capital works Headworks Assets (Charmhaven Treatment Works).
- 4 Plan No. 11486A sheets 1 to 5 and sheets 7 to 15 inclusive and Plan No. 11486B sheet 6 shows sewerage capital works (Distribution Assets).

Once adopted, the new charges will apply to this site as detailed in the Enclosures.

**Water Supply**

The following is a summary of the elements used in calculating the relevant water supply developer charge;

- Details of Water Headworks Assets for Gosford - Wyong Joint Water Supply are contained in Part 2 of this DSP.
- Water supply works and associated costs and timing are detailed in Enclosure - Table 1.
- Water supply operating costs, revenue and operating surplus are detailed in Enclosure - Table 2.

**Sewerage**

The following is a summary of the elements used in calculating the relevant sewerage developer charge;

- Sewerage works and associated costs and timing are detailed in Enclosure - Table 3.
- Sewerage operating costs, revenue and operating surplus are detailed in Enclosure - Table 4.



**Development Servicing Plan No. 15 - Water Supply and Sewerage for Lot 401 in DP 1058215 within the Gorokan District - (contd)**

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**Summary of Charges**

The table below contains the summary of the contributions applicable Lot 401 in DP 1058215 within the Gorokan District.

The contributions applicable under this DSP are less than those applicable under the Gorokan District DSP for the following reasons:

1. The significant load from this development decreases the unit cost per Equivalent Tenement (ET) when incorporated within the total number of ET's served by the existing water supply and sewerage systems.
2. The DSP reflects current planning in relation to the timing of DSP components. Some components included in the last review of the Gorokan District DSP in 2001 have been deferred which has the effect of reducing charges payable when calculated in accordance with the IPaRT methodology. This reduction will be passed on to other developments within the Gorokan District DSP when IPaRT completes its review of its DSP methodology and existing DSP's are updated. This update is currently scheduled for July 2009.

The new charges compared with the current charges are as follows: Note that the Contribution Rates are capped at 85% of the calculated charge as required under the IPaRT Determination.

**WATER SUPPLY**

AREA	CURRENT CONTRIBUTION (\$/ET) *	NEW CONTRIBUTION (\$/ET)
Lot 401 in DP 1058215	2,410	2,161

**SEWERAGE**

AREA	CURRENT CONTRIBUTION (\$/ET) *	NEW CONTRIBUTION (\$/ET)
Lot 401 in DP 1058215	3,456	2,177

\* Costs as at June 2008.

**Development Servicing Plan No. 15 - Water Supply and Sewerage for Lot 401  
in DP 1058215 within the Gorokan District - (contd)**

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The new rates are based on July 2008 costs and will be subject to annual indexation in accordance with Section 12 of the DSP 7.

**Enclosures**

***Location Plans (11484B-01 and 11484B-02) – Water Supply  
and Sewerage  
Water supply works and associated operating costs, revenue  
and operating surplus – ( Table 1 and Table 2)  
Sewerage works and associated operating costs, revenue  
and operating surplus – (Table 3 and Table 4)***

**WYONG SHIRE COUNCIL**

9 April 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**152 Amended Schedule of Ordinary Meetings 2008**

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F2006/02282 SG

**SUMMARY**

Reporting the amended scheduling of Ordinary Meetings for 2008.

**RECOMMENDATION**

*That the amended meeting dates proposed for 2008 be adopted.*

**BACKGROUND**

In accordance with Clause 6(2) of Council's Code of Meeting Practice, Ordinary Meetings of Council are held on the second and fourth Wednesday of each calendar month, with the exception of the last scheduled meeting in December and the first scheduled meeting in January, commencing at 5.00 pm.

Council at its meeting held on 12 December 2007 adopted the 2008 Ordinary Meeting dates.

It has now been confirmed that the Local Government Election will be held on Saturday, 13 September 2008 and in accordance with Clause 290 of the Local Government Act, the meeting to elect the Mayor must be held within three weeks of that date. At that meeting, the newly elected Council will decide on a meeting schedule for the remainder of the year.

The meeting scheduled for 24 September 2008 now falls after the Local Government Election. This meeting is to be deferred until after the Mayoral election proposed to be held on 1 October 2008. The date will depend on when the Poll is declared by the Electoral Commission.

**153 Supportership/Sponsorship of Graffiti Hurts - Australia**

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F2004/07937 SG

**SUMMARY**

Report on consideration of supportership/sponsorship to Graffiti Hurts Australia Official Campaign Launch in April 2008.

**RECOMMENDATION**

- 1** *That an annual supportership/sponsorship of \$2,500 be provided to the Graffiti Hurts - Australia Official Campaign Launch on 10 April 2008.*
- 2** *That the funds be made available from the Community Benefits Grants Program for 2007/2008.*
- 3** *That further funding of \$2,500 be granted to Graffiti Hurts – Australia in the 2008/2009 Management Plan.*

**BACKGROUND**

Council at its meeting held on 13 February 2008 considered report no 052 – Vandalism Across our Shire and resolved as follows:

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

- 1 That Council further contacts public utilities to promote and expedite graffiti removal from their properties.*
- 2 That a publicity campaign be undertaken to encourage community members to increase their reporting of graffiti vandalism to Council, public utilities and the NSW Police and to educate the community on the benefits of the speedy removal of graffiti from their own property.*
- 3 That owners of private property be encouraged to remove graffiti from their properties.*
- 4 That a location impacted by high levels of graffiti be selected for the installation of a public art mural as a pilot scheme with community members being involved in the design and execution of the work.*
- 5 That Council continue to work cooperatively with the NSW Police including expanding on intelligence gathering, notifications, joint publicity and sharing information to combat graffiti attacks.”*

### **Supportership/Sponsorship of Graffiti Hurts - Australia (contd)**

Correspondence has been received from Graffiti Hurts – Australia (GHA) seeking supportership/sponsorship from Local Government Supporters for the official launch of its campaign in April 2008.

The group have stated in their correspondence that a number of local councils have shown their support by becoming a Local Government Supporter. Further examples of local council supportership are contained within Attachment 2. GHA have announced that due to a request from corporate supporters, the fee has been reduced from \$5,000 to \$2,500 per year. If Council were to become a supporter/sponsor, then it will receive supportership until the end of June 2009, instead of the normal 12 months.

GHA is a community based not for profit incorporated association and provides a one stop resource for all things relating to the education and eradication of graffiti. The group aim to provide and support local governments with resources and programs to engage the community in reducing graffiti that is prevalent in the Wyong Shire area.

The objectives of GHA are as follows:

- Safer and prouder communities.
- A cleaner community.
- The restoration and sustenance of public infrastructure.
- Community connection and social cooperation.
- Reduction in costs placed on governments, industry and the community on graffiti management.
- Reduced vandalism as a result of high youth participation.
- Increased pride and morale.
- Improved facilities, features and municipal presentation.
- Increased interaction between various groups.
- Tourism promotion.

If Wyong Council were of a mind to support the group, it would receive the following benefits/rights:

- Recognition on Graffiti Hurts – Australia's website in text and logo with link back to own site.
- Invite to Graffiti Hurts – Australia network function in own state.
- Permission to use Graffiti Hurts – Australia supporters logo on own promotional material.
- Access and localised use to educational material which can be co-branded between Graffiti Hurts – Australia and Council.
- Supply of educational material co-branded free of charge.
- Direct reporting to councils cleaning contractors of reported Graffiti through the nationwide Graffiti Reporting website being launched in 2008.
- Localised yearly graffiti report.
- Copy of Local Government yearly graffiti survey report.

## **Supportership/Sponsorship of Graffiti Hurts - Australia (contd)**

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### **FUNDING**

Funding is available from the Community Benefit Grants Program for 2007/2008.

The Council representatives on the Community Benefit Grants Panel have all given their support to this funding request.

Attachment 1 to this report is correspondence received from GHA and a Sponsorship and Supporter Schedule.

<b><i>Attachment 1</i></b>	<b><i>Correspondence from Graffiti Hurts – Australia including Sponsorship and Supporter Schedule (8 pages)</i></b>
<b><i>Attachment 2</i></b>	<b><i>Examples of Local Council Supportership (1 page)</i></b>

## **Supportership/Sponsorship of Graffiti Hurts - Australia (Attachment 1)**

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7 March 2008

Mr Kerry Yates  
General Manager  
Wyong Shire Council  
PO Box 20  
WYONG NSW 2259

Dear Mr Yates,

**Re: Graffiti Hurts – Australia Launch and Supportership**

As you would be aware, from our information and correspondence sent to you and the Wyong Shire Council late last year, Graffiti Hurts – Australia aims to provide and support local governments across the nation with resources and programs to engage the community in reducing the amount of graffiti prevalent within their and Wyong Shire Councils area.

Graffiti Hurts – Australia is fast becoming the pre-eminent community organisation in the nation regarding the issue of graffiti vandalism. Media organisations, both at state and local levels, have begun making regular contact for comments. We have also begun working with local neighbourhood watch coordinators in the development of localised programs as well as the under taking of the Local Government Graffiti Survey late last year.

A study late last year by the Australian Institute of Criminology stated that 25% of Australians thought that graffiti, vandalism and damage to property was a problem in their area. Graffiti Hurts – Australia, working in partnership with Wyong Shire Council, wants to help you reduce these figures.

A number of local councils across Australia have already shown their support for our organisation by becoming Local Government Supporters and we are pleased to announce, that due to a corporate supporters request, we have reduced the Local Government supporter fee from \$5000 to \$2500 a year.

The benefits of being a Local Government Supporter do not change. In fact, if Wyong Shire Council becomes a member now, it will receive supportership until the end of June 2009, instead of the regular 12 months.

If Wyong Shire Council is not a Local Government Supporter, we would encourage you and Councillors to review the Local Government Supporter benefits in the document attached and for your council to consider becoming a supporter in your budget discussions for the 2008/2009 year.

**Supportership/Sponsorship of Graffiti Hurts - Australia (Attachment 1)  
(contd)**

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The official launch of Graffiti Hurts – Australia is fast approaching, and we are currently planning the resources that will be provided to you as part of the launch.

To help in this process, Graffiti Hurts - Australia has included a Launch Contact Form that we would request be filled out and sent back to us by April 10, 2008. This is to ensure that the resources are sent to the correct contact person within Wyong Shire Council before the launch date.

You will notice on the form, that for each resource we have a Supporter and Non Supporter box to indicate if your council is a supporter and for you to receive the supporter benefits.

If Wyong Shire Council has already decided to be a supporter for the 2008/2009 year, please tick the supporters box so that we can provide you with the Supporter benefits for the launch.

Please ensure that you also provide the contact details of the person within Wyong Shire Council that will be our organisations contact. We can then liaise with them in providing you with the Local Government Supporters logo for your use on your website and on other promotional material and also so that we can receive your logo for placement on our website.

We thank those councils that have already become supporters, and to you for reviewing this letter and supporting document and look forward to your councils support for our national launch.

Please feel free to contact me or have a member of your department staff contact me for further information on 0411 596 634 or 03 9720 7356.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Scott Hilditch", is written over a horizontal line.

Scott Hilditch  
Chief Executive Officer



☎ 03 9720 7356  
✉ PO Box 620  
Brentford Square  
Victoria 3131  
✉ info@graffitihurts.com.au  
🌐 www.graffitihurts.com.au



**Supportership/Sponsorship of Graffiti Hurts - Australia (Attachment 1)  
(contd)**

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**Graffiti Hurts – Australia Launch Form:**

The official launch of Graffiti Hurts – Australia is fast approaching and as part of the nation wide launch of Graffiti Hurts – Australia, we will be providing Wyong Shire Council with community resources and educational material for your use.

We would be pleased if you would complete the form below to help us provide these resources and the localised media release to the correct person within your organisation.

Please tick the relevant resources your council would like to receive for the launch. All resources will be posted to the persons detailed below. The launch media release for the Mayor will be emailed in MS Word format to the person listed under the Councils Communications section of this form.

*Local Government Supporter*

- We intend to become a Local Government Supporter
- We don't intend to become a Local Government Supporter

*Community Graffiti information and removal DL flier*

- Non Supporter fliers
- Local Government Supporter fliers

*'Ouch – Graffiti Hurts' Community Posters*

- Non Supporter posters
- Local Government Supporter posters

Council Officer/s responsible for graffiti program or community fliers:

Name:.....

Position:.....

Email:.....

*Localised Media Release*

- Non Supporter
- Local Government Supporter

Councils Communication / PR Manager/Officer

Name:.....

Position:.....

Telephone:.....

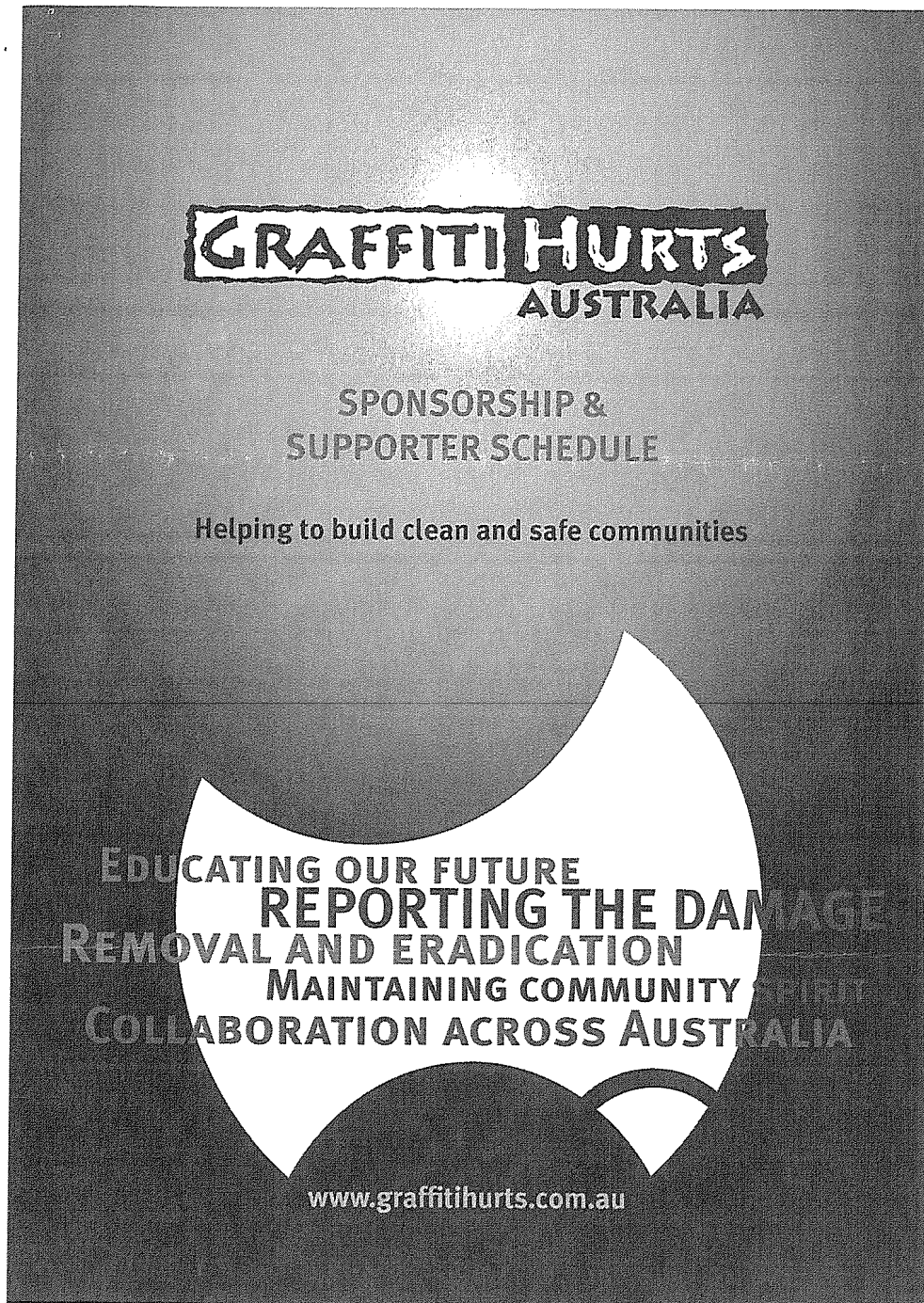
Email:.....

Please return by April 10 2008 to  
Graffiti Hurts – Australia  
PO Box 620  
Brentford Square  
Victoria 3131

or via email at [info@graffitihurts.com.au](mailto:info@graffitihurts.com.au)

**Supportership/Sponsorship of Graffiti Hurts - Australia (Attachment 1)  
(contd)**

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## Supportership/Sponsorship of Graffiti Hurts - Australia (Attachment 1) (contd)



### SPONSORSHIP/SUPPORTER SCHEDULE 2007/09

*Graffiti Hurts - Australia* is a national non-profit, non-political, non-sectarian, educational community organisation in Australia.

Launched in 2008 to tackle, coordinate and sustain a national educational approach on the issue of graffiti, *Graffiti Hurts - Australia's* mission is to reduce the amount, costs and effects graffiti has on communities, governments and community service providers throughout Australia.

Throughout Australia graffiti costs tax and ratepayers over \$260 million a year in removal and eradication. The area of public safety is hard to quantify in dollar figures and graffiti has a direct effect on communities feeling safe, especially for the elderly in our society.

While the issue of graffiti has been talked about, programs developed and in some case campaigns run, none have been sustained for a great length of time to help educate the community on the real effects graffiti has on Australia. That is until now.

**GRAFFITI HURTS** is a respected and highly regarded program throughout the USA from Keep America Beautiful which has been adapted by long time former Keep Australia Beautiful staff member Scott Hilditch for the benefit of the Australian community.

*Graffiti Hurts - Australia* achieves its mission through programs and campaigns that provides resources, educational material and services for all levels and areas of the Australian community in a coordinated approach.

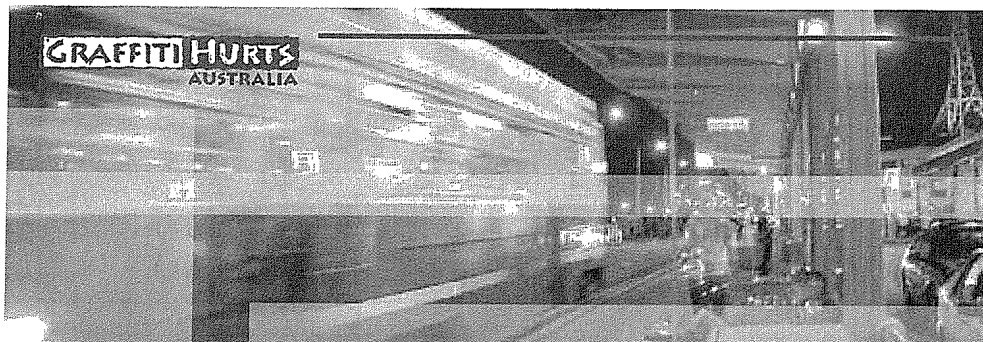
*Graffiti Hurts - Australia* now assists in the development of a clean nation where all Australians can protect and enhance their local environment through their own positive actions in helping reduce the cost of graffiti on the rest of the community.

Through its programs *Graffiti Hurts - Australia* will work with members of the community, industry, schools, and all levels of Federal, State and Local governments in reducing the hurt, costs and safety issues graffiti causes local communities.

These activities include restoration of a local buildings, removal of graffiti, reversing the effects of graffiti through tree planting, keeping local amenities and all aspects of the public transport system clean and free of graffiti by educating people on the effects and costs their actions have on the rest of the local community through graffiti.

#### KEY FACTS

- *Graffiti Hurts - Australia* is a community based not for profit incorporated association
- *Graffiti Hurts - Australia* provides a one stop resource for all things relating to the education and eradication of graffiti
- *Graffiti Hurts - Australia* relies on sponsorship and supporters for income to achieve its programs aim and support the community in eradicating graffiti.
- *Graffiti Hurts - Australia* has applied to the Australia Tax Office for tax deductibility on donations and bequests

**Supportership/Sponsorship of Graffiti Hurts - Australia (Attachment 1)  
(contd)****OUR OBJECTIVES**

*Graffiti Hurts - Australia* programs work towards the following objectives...

- Safer and prouder communities
- A cleaner community
- The restoration and sustenance of public infrastructure
- Community connection and social co-operation
- Reduction in costs placed on governments, industry and the community on graffiti management
- Reduced vandalism as a result of high youth participation
- Increased pride and morale
- Improved facilities, features and municipal presentation
- Increased interaction between various groups
- Tourism promotion

To achieve its aims and to educate communities throughout Australia *Graffiti Hurts - Australia* needs financial support from Governments, Industry and business to develop, provide and promote it's community resources.

*Graffiti Hurts - Australia* has developed a detailed sponsorship and supporter program that provides exposure for those organisations helping to remove the hurt graffiti has on the Australian community.

The following supporter level help continue the works, development and operations of *Graffiti Hurts - Australia* in becoming the pre-emanate anti-graffiti community organisation in Australia.

**SPONSORSHIP / SUPPORTOR LEVELS:**

- Premier & Awards Sponsor\*
- Gold Supporter Partnership\*
- Silver Supporter Partnership\*
- Bronze Supporter Partnership\*
- Local Government Supporter Partnership\*
- Value In Kind Supporter
- Local Community Graffiti Removal Grants\*

Note: While there is a cap of only one organisation for the Premier & Awards Sponsor, all other levels of supporter partnerships are open.



## Supportership/Sponsorship of Graffiti Hurts - Australia (Attachment 1) (contd)



### PREMIER SUPPORTER<sup>1</sup>



#### BENEFITS/RIGHTS:

- Premier & Awards sponsor
- Association with the leading Australian educational campaign on graffiti
- Recognition on all documentation, promotional material.
- Recognition on every page of *Graffiti Hurts - Australia's* website by organisation logo with link back to own site
- Recognition on all Television community service announcements
- Speaking opportunity at 'launch' function
- Invitation to *Graffiti Hurts - Australia* network function
- Opportunity to display promotional material at *Graffiti Hurts - Australia* network function in every state.
- Inside front page advertising in all editions of the *Graffiti Hurts - Australia* quarterly newsletter<sup>2</sup>
- Permission to use *Graffiti Hurts - Australia's* supporters logo on own promotional material and website for the term of the agreement
- First right to continued Premier Sponsorship at the end of agreement term.
- Awards recognition<sup>3</sup>
- Recognition on all Community Awards relevant award documentation
- Presentation and naming rights to the Graffiti Hurts award category
- 4 tickets, travel and accommodation to the National Community Awards functions and their networking functions at those Awards functions.

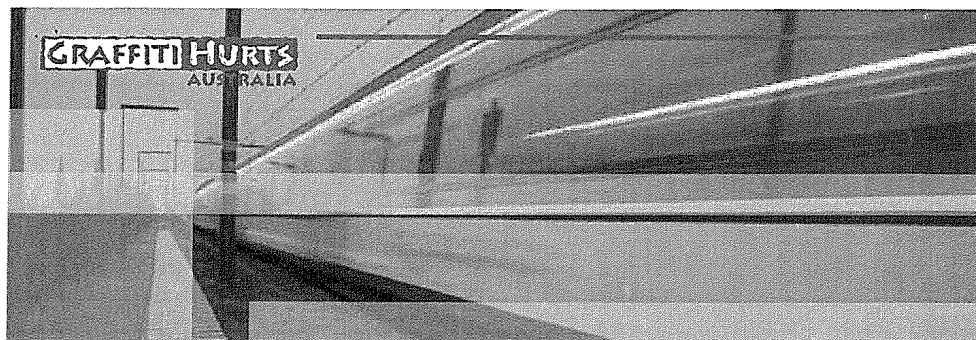
#### AWARDS<sup>3</sup>

*Graffiti Hurts - Australia* in partnership with a national community based organisation will develop a community based award.

The *Graffiti Hurts - Australia* award program aims to:

- Increase interaction between various local community groups
- Promote public awareness and education of the cost of graffiti to the local community and community groups
- Repair and preserve the environment from graffiti
- Increase pride and morale in the community
- Lessen graffiti vandalism through high youth participation

Talks between *Graffiti Hurts - Australia* and a community organisation with a national awards program like Keep Australia Beautiful, Neighbourhood Watch, Crimestopper etc. will focus on the award category being launched and included in the 2009 awards season.

**Supportership/Sponsorship of Graffiti Hurts - Australia (Attachment 1)  
(contd)**

**BRONZE SUPPORTERS<sup>1</sup>**



**BENEFITS/RIGHTS:**

- Recognition on *Graffiti Hurts - Australia's* website in text with link back to own site
- Recognition on the Supporters page of the *Graffiti Hurts - Australia* quarterly newsletter
- Recognition via organisational logo on public campaign material
- Invite to *Graffiti Hurts - Australia* network function
- Opportunity to display promotional material at *Graffiti Hurts - Australia* network function in own state
- 10% discounted advertising for the *Graffiti Hurts - Australia* quarterly newsletter<sup>2</sup>
- Permission to use *Graffiti Hurts - Australia* supporters logo on own promotional material for the term of the agreement
- 2 tickets to the national awards function

**LOCAL GOVERNMENT SUPPORTERS<sup>1</sup>**  
**ANNUAL CONTRIBUTION - \$2,500**



**BENEFITS/RIGHTS:**

- Recognition on *Graffiti Hurts - Australia's* website in text and logo with link back to own site.
- Invite to *Graffiti Hurts - Australia* network function in own state
- Permission to use *Graffiti Hurts - Australia* supporters logo on own promotional material.
- Access and localised use to educational material which can be co-branded between Graffiti Hurts - Australia and Council.
- Supply of educational material co-branded free of charge.
- Direct reporting to councils cleaning contractors of reported Graffiti through the nation wide Graffiti Reporting website being launched in 2008.
- Localised yearly graffiti report
- Copy of Local Government yearly graffiti survey report.

## Supportership/Sponsorship of Graffiti Hurts - Australia (Attachment 2)



Graffiti Hurts - Australia  
PO Box 620  
Bentford Square Victoria 3330  
Phone: 03 9720 7356  
Fax: 03 9720 0750  
Email: info@graffithurts.com.au  
www.graffithurts.com.au

Current Local Government list of supporters of Graffiti Hurts – Australia's programs (20 March 2008)

Leichhardt Municipal Council (NSW)	Strathfield Municipal Council (NSW)
Townsville City Council (Qld)	Ipswich City Council (Qld)
Logan City Council (Qld)	Roma Town Council (Qld)
Redland Shire Council (Qld)	Adelaide City Council (SA)
City of Mount Gambier (SA)	City of Port Adelaide (SA)
City of Salisbury (SA)	City of Bayswater (WA)
City of Canning (WA)	Shire of Collie (WA)
City of Fremantle (WA)	City of South Perth (WA)
City of Swan (WA)	Ballarat City Council (Vic)
Boroondara City Council (Vic)	Casey City Council (Vic)
Frankston City Council (Vic)	Greater City of Bendigo (Vic)
Hobsons Bay City Council (Vic)	Horsham Rural City Council (Vic)
Melton Shire Council (Vic)	Mitchell Shire Council (Vic)
Stonnington City Council (Vic)	Yarra City Council (Vic)
Yarra Ranges Shire Council (Vic)	Darwin City Council (NT)
Palmerston City Council (NT)	Burnie City Council (Tas)
Launceston (Tas)	

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## **Information Reports**

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

**WYONG SHIRE COUNCIL**

9 April 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**154 Schedules of Bank Balances and Investments – January & February 2008**

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F2004/06604 HS

**SUMMARY**

The attached Schedules of Bank Balances and Investments as at 31 January 2008 and 29 February 2008 are submitted for information.

**RECOMMENDATION**

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

**BACKGROUND**

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

The Schedule of Bank Balances and Investment Accounts shows that Council had total cash and investment funds of \$119,182,817 as at 31 January 2008 and \$121,056,963 as at 29 February 2008. This compares to an opening balance of \$108,877,984 as at 1 July 2007. These funds are invested with Fund Managers in accordance with Council's investment policy.

***January Performance***

During the month of January interest earned and capital movements (net of fees) on Council's investments was \$419,534 and financial year to date earnings were \$2,356,597.

***February Performance***

During the month of February interest earned and capital movements (net of fees) on Council's investments was \$196,755. There is also an adjustment for fees in arrears of \$16,394. Financial year to date earnings were \$2,536,958.

## Schedules Of Bank Balances And Investments – January and February 2008 (contd)

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

	Investment Balances			Interest			
	Opening Balance	Closing Balance	Closing Balance	Interest Net Of Fees YTD	Interest Net Of Fees YTD	Original Budget	Revised Budget
	July 1 2007	January 31 2008	February 29 2008	January 31 2008	February 29 2008		Dec Review
General	71,992,818	60,781,160	66,075,186	1,385,385	1,494,353	2,248,100	2,248,100
Water	15,185,232	37,413,174	33,352,839	487,982	543,287	1,644,000	644,000
Sewer	21,699,934	20,988,483	21,628,938	483,230	499,318	803,000	803,000
<b>Total</b>	<b>108,877,984</b>	<b>119,182,817</b>	<b>121,056,963</b>	<b>2,356,597</b>	<b>2,536,958</b>	<b>4,695,100</b>	<b>3,695,100</b>

### Performance Monitoring

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

*i Management of Bank Balance*

Bank balances are reviewed daily to ensure the amount invested is maximised.

*ii Portfolio and Monthly performance against the UBSA Bank Bill Index*

Council's overall investment return is compared to the UBSA (Union Bank of Switzerland Australia) Bank Bill Index.

The returns on Council's investments are made up of two components:

- Interest
- Capital Gains and Losses

For the year to date all of Council's investments have earned interest at or above market benchmarks.

However, it was a difficult period for investors generally and for six of Council's investments there was also a reduction in the underlying value of investment units within these funds of between 0.94% and 6.61%.

For these investment funds the under performance resulting from falling valuations must not be seen as a permanent loss. The investments represent a pool of interest earning securities and, on maturity, the value of each component investment will return to 100% of nominal value.

Our advisors note that, for these funds, the performance outlook over the expected holding period of the investment remains strong.

**Schedules Of Bank Balances And Investments – January and February 2008 (contd)**

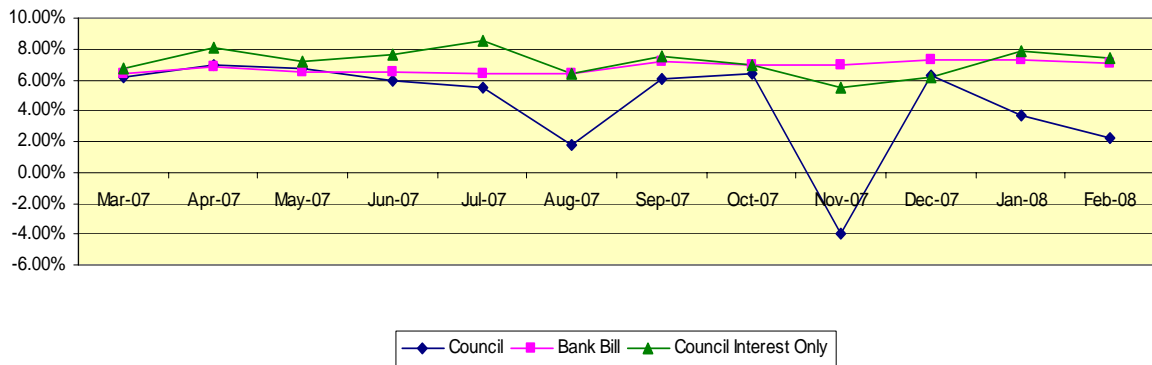
To assist in the analysis of Council’s investment performance Council’s Schedule of Investments now includes an additional dissection of Interest Only as distinct from Capital Movements. It is noted that this is appropriate on the assumption that Council will be holding those managed funds investments until maturity. Council’s current projections anticipate this scenario. Council reports will continue to show this dissection as long as it is relevant to Council’s consideration of investment performance.

Councillors will have the opportunity to meet with representatives of Council’s investment advisor at a Councillor Briefing to be held at 12 noon on 9 April 2008.

The weighted average return (interest and capital movements) for the portfolio of Council’s managed funds (net of fees) during January 2008 was 3.69% which was unfavourable to the benchmark of the UBSA Bank Bill Index of 7.26%. The interest earning component for January, on the other hand, was 7.82%, slightly above the index.

The weighted average return (interest and capital movements) for the portfolio of Council’s managed funds (net of fees) during February 2008 was 2.17% which was unfavourable to the benchmark of the UBSA Bank Bill Index of 7.03%. The interest earning component for February, on the other hand, was 7.43%, slightly above the index.

**Monthly Annualised Returns (Interest & Capital Movements)  
Portfolio Performance Comparison to UBSA Bank Bill Index**



**Council:** Council Total Return (Interest & Capital) – Average for Twelve Months  
**Bank Bill:** UBSA Bank Bill Reference Rate – Average for Twelve Months  
**Council Interest Only:** Council Interest Earnings – Average for Twelve Months

## **Schedules Of Bank Balances And Investments – January and February 2008 (contd)**

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Two investments (Black Rock and Aberdeen) assets performed badly in January.

BlackRock Diversified Credit Fund returned a negative 8.87% (annualised).

This fund is overweighted towards the senior and subordinated debt of global banks and financial institutions. Our initial investment decision was based on the view of our investment advisor that the fund would bring the returns of CDO's (Collateralised Debt Obligations) but with less risk. The reason for the reduction in risk was the tendency for governments to rescue large financial institutions suffering financial distress.

Our investment advisors (Grove Research and Advisory) have recommended holding onto this investment. The decline in performance was due, not to mismanagement or inappropriate trades, but due to one-off repricing of the credit risk of the underlying assets. There are reasons to believe that this repricing event will not re-occur. These include the likelihood of US Federal intervention to mitigate the impact of the sub-prime market collapse.

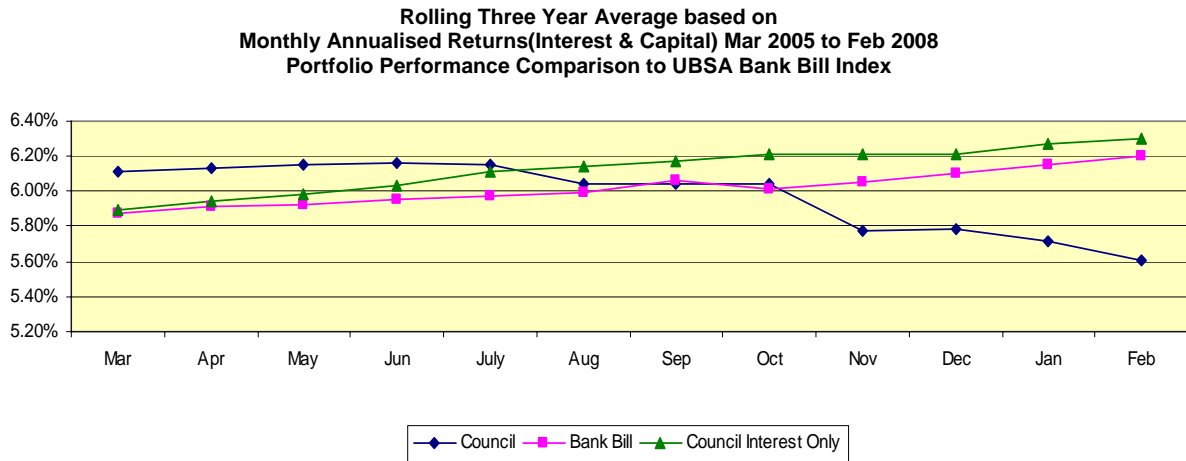
Aberdeen Cash Fund, returned a negative 2.86% (annualised). Since July 2007 Council has reduced its holding in this fund by about one half and a further reduction in this fund has been recommended by the investment advisor.

Based on the performance of the investment portfolio over the last few months, Council instructed its advisors to review the current investments and provide Council a recommendation on the future portfolio. A copy of this review is attached as Attachment 2 with Grove's specific recommendations shown on page 20 of the advice.

In summary, Grove have advised that given the recent market volatility new opportunities are available to Council to improve returns. Their recommendations will effectively shift around 15% of the poorer performing components of council's portfolio into alternative investments expected to yield better returns. These changes will occur over the ensuing months.

**Schedules Of Bank Balances And Investments – January and February 2008  
(contd)***iii. Three Year Average Returns – Actual vs Benchmark*

Council's rolling three year average returns were 5.61% compared to the rolling three year average UBSA Bank Bill Index of 6.20%.



**Council:** Council Total Return (Interest & Capital) – Average for Three Years  
**Bank Bill:** UBSA Bank Bill Reference Rate – Average for Three Years  
**Council Interest Only:** Council Interest Earnings – Average for Three Years

## Schedules Of Bank Balances And Investments – January and February 2008 (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 January 31 2008

FUND MANAGER	TYPE	PORTFOLIO	INCOME	FEES	ANNUALISED RETURNS			ADDITIONAL DISSECTION Interest Only Component FYTD***	Capital Movements Component FYTD
					MONTH	FYTD*	MAT**		
		BALANCE	FOR MONTH						
Local Gov't Financial Services	Cash Plus	1,209,714.91	5,334.82	-	5.34%	5.50%	<b>5.94%</b>	5.50%	0.00%
LGFS Fixed Out-Performance Cash Fund (AA-f)	Cash Plus	20,027,911.13	27,911.13	-	6.57%	6.57%	<b>6.57%</b>	6.57%	0.00%
BT Institutional Managed Cash (AAA)	Cash	28,179,966.76	322,309.28	6,775.77	7.14%	6.79%	<b>6.60%</b>	6.79%	0.00%
Aberdeen Cash Plus Fund (A)	Cash Plus	11,316,312.93	(26,124.52)	-	-2.68%	2.50%	<b>4.13%</b>	8.78%	-3.66%
ING Enhanced (A)	Cash Plus	9,148,372.20	12,521.98	-	1.05%	3.29%	<b>4.64%</b>	7.39%	-2.37%
Perennial Cash Enhanced Fund (AA)	Cash Plus	2,397,826.49	5,580.75	-	2.78%	4.02%	<b>5.03%</b>	8.95%	-2.87%
Macquarie Income Cash Plus (A)	Enhanced Income	22,509,535.17	147,032.44	-	8.02%	4.21%	<b>5.19%</b>	6.27%	-1.20%
T-Corp (WorkCover NSW)	Cash Plus	7,403,000.00	42,566.10	-	6.77%	6.65%	<b>6.50%</b>	6.65%	0.00%
BlackRock Diversified Credit Fund (A)	Enhanced Income	14,852,085.23	(115,555.22)	-	-8.87%	-3.23%	<b>0.86%</b>	6.61%	-5.74%
QIC Cash Enhanced (AA)	Cash Plus	2,138,092.84	9,315.79	-	5.28%	5.05%	<b>5.72%</b>	8.00%	-1.72%
Grove Advisory Fees				4,582.60					
<b>TOTAL</b>		119,182,817.66	430,892.55	11,358.37	3.69%	3.57%	<b>4.66%</b>	6.91%	
<b>UBSWA INDEX</b>					7.26%	6.93%	6.78%	6.93%	

\*- FYTD= Financial Year to Date \*\*- MAT = Moving Annual Total

\*\*\* Annualised

**Schedules Of Bank Balances And Investments – January and February 2008  
(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  
February 29 2008**

FUND MANAGER	TYPE	PORTFOLIO	INCOME	FEES	ANNUALISED RETURNS			ADDITIONAL DISSECTION	
					MONTH	FYTD*	MAT**	Interest Only Component FYTD***	Capital Movements Component FYTD
		BALANCE	FOR MONTH						
Local Gov't Financial Services	Cash Plus	1,211,878.23	2,163.32	-	2.28%	5.09%	<b>5.58%</b>	5.09%	0.00%
LGFS Fixed Out-Performance Cash Fund (AA-f)	Cash Plus	20,143,793.45	115,882.32	-	7.55%	7.06%	n/a	7.06%	0.00%
BT Institutional Managed Cash (AAA)	Cash	28,558,429.64	145,830.22	2,367.34	6.74%	6.84%	<b>6.72%</b>	6.84%	0.00%
Aberdeen Cash Plus Fund (A)	Cash Plus	11,277,181.06	(39,131.87)	-	-4.00%	1.67%	<b>3.20%</b>	7.70%	-4.02%
ING Enhanced (A)	Cash Plus	9,130,293.30	(18,078.90)	-	-2.30%	2.59%	<b>3.89%</b>	5.95%	-2.44%
Perennial Cash Enhanced Fund (AA)	Cash Plus	2,393,424.73	(4,401.76)	-	-2.14%	3.25%	<b>4.29%</b>	7.85%	-3.07%
Macquarie Income Cash Plus (A)	Enhanced Income	22,568,348.14	58,812.97	-	3.12%	4.10%	<b>4.90%</b>	5.51%	-0.94%
T-Corp (WorkCover NSW)	Cash Plus	8,885,000.00	44,192.90	-	6.77%	6.67%	<b>6.55%</b>	6.67%	0.00%
BlackRock Diversified Credit Fund (A)	Enhanced Income	14,748,444.43	(103,640.80)	-	-7.91%	-3.86%	<b>-0.45%</b>	6.01%	-6.61%
QIC Cash Enhanced (AA)	Cash Plus	2,140,170.07	2,077.23	-	1.15%	4.59%	<b>5.29%</b>	7.02%	-1.62%
Grove Advisory Fees				4,582.60					
<b>TOTAL</b>		121,056,963.05	203,705.63	6,949.94	2.17%	3.38%	<b>4.37%</b>	6.53%	
<b>UBSA INDEX</b>					7.03%	6.94%	6.83%	6.94%	

\*- FYTD= Financial Year to Date    \*\*- MAT = Moving Annual Total

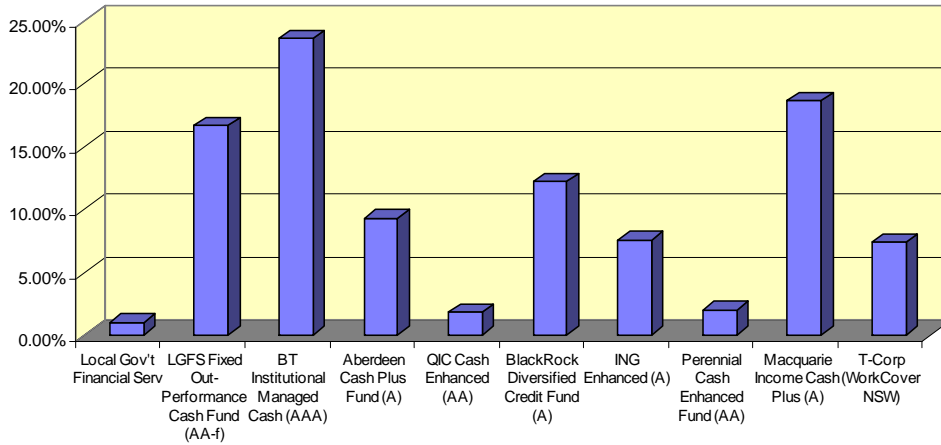
\*\*\* - Annualised



**Schedules Of Bank Balances And Investments – January and February 2008 (contd)**

**Allocation of Investment Funds**

Council's portfolio during February was allocated to the following assets:



**INVESTMENT STATEMENT**

In accordance with the Local Government (General) Regulation 2005, Part 9, Division 5, Clause 212, I certify that the investments held at 31 January 2008 and 29 February 2008 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

.....  
Director Corporate Services

**Attachment 1**

**Schedule of Bank Balances and Investments 29 February 2008 (1 page)**

**Enclosure**

**Grove Research and Advisory Investment Portfolio Review**

**Schedule Of Bank Balances And Investments – January and February 2008  
(Attachment 1)**

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**SUMMARY**

**February 29 2008**

<b><u>General</u></b>	<b>\$</b>
Unrestricted	2,519,052.06
Restricted - Internally	20,023,354.00
Restricted - Externally	43,532,780.00
<b>Total General</b>	<b>66,075,186.06</b>
<b><u>Water</u></b>	
Unrestricted	-2,832,661.30
Restricted - Internally	333,200.00
Restricted - Externally	35,852,300.00
<b>Total Water</b>	<b>33,352,838.70</b>
<b><u>Sewer</u></b>	
Unrestricted	1,939,137.29
Restricted - Internally	554,700.00
Restricted - Externally	19,135,101.00
<b>Total Sewer</b>	<b>21,628,938.29</b>
<b>TOTAL INVESTMENTS</b>	<b>121,056,963.05</b>
<b>BANK BALANCE PER BANK STATEMENT</b>	<b>1,710,130.94</b>
<b>TRUST ACCOUNT PER BANK STATEMENT</b>	<b>24,048.79</b>

## WYONG SHIRE COUNCIL

9 April 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

### **155 Outstanding Questions Without Notice and Notices of Motion**

F2008/00003 MW:SW

#### **SUMMARY**

Report on outstanding Questions Without Notice and Notices of Motion.

#### **RECOMMENDATION**

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

<b>Question Asked</b>	<b>Asked By</b>	<b>Meeting Asked</b>	<b>Department</b>
Q110 – Purchase of a 3D Fly Through Planning System  (Investigations have commenced and a response will be reported once costings have been received)	Councillor Stewart	31 October 2007	Shire Planning
Q123 - Darcy Smith Court Case  (A response will be reported to Council when the case has been finalised in the LEC)	Councillor Pavier	12 December 2007	Shire Planning
Q012 – Upkeep of Coral Street Carpark, The Entrance  (A report will be submitted to Council at the 23 April 2008 Ordinary Meeting)	Councillor Stewart	12 March 2008	Shire Services
Q013 – Vehicular Access in Rutleys Road, Doyalson  (A report will be submitted to Council at the 23 April 2008 Ordinary Meeting)	Councillor Stevens	12 March 2008	Shire Services

**Outstanding Questions Without Notice and Notices of Motion (contd)**

<b>Question Asked</b>	<b>Asked By</b>	<b>Meeting Asked</b>	<b>Department</b>
<p>Q014 – Pest/Vermin Control/Eradication Programs Scheduled for the Bateau Bay/Shelly Beach Areas</p> <p>(A report will be submitted to Council at the 23 April 2008 Ordinary Meeting)</p>	Councillor Forster	12 March 2008	Shire Services
<p>Q015 – Legal Proceedings Council vs Darcy Smith</p> <p>(A report will be submitted to Council at the 9 May 2008 Ordinary Meeting)</p>	Councillor Pavier	12 March 2008	Shire Planning
<p>Q017 – Date of Proposed Meeting Between Council and Minister Nathan Rees</p> <p>(A response will be reported when a reply has been received from the Minister)</p>	Councillor Eaton	12 March 2008	General Manager's Unit
<p>Q018 – Vegetation Study Along Hue Hue Road</p> <p>(A response will be submitted to Council at the 23 April 2008 Ordinary Meeting)</p>	Councillor Eaton	12 March 2008	Shire Planning
<p>Q019 – Rezoning Application by Westfield for Land at Corner of Cobbs Road, Tonkiss Street and the F3</p> <p>(A report will be submitted to Council at the 23 April 2008 Ordinary Meeting)</p>	Councillor Welham	12 March 2008	Shire Planning
<p>Q020 – Competitive Section 94 Analysis</p> <p>(A response will be submitted to Council at the 23 April 2008 Ordinary Meeting)</p>	Councillor Best	12 March 2008	Shire Planning

### **Outstanding Questions Without Notice and Notices of Motion (contd)**

<b>Question Asked</b>	<b>Asked By</b>	<b>Meeting Asked</b>	<b>Department</b>
Q021 - Development Application Trends  (A response will be submitted to Council at the 11 June 2008 Ordinary Meeting)	Councillor Eaton	26 March 2008	Shire Planning
Q022 - Shortfall in Construction Costs of the Mardi Mangrove Link  (A response will be submitted to Council at the 14 May 2008 Ordinary Meeting)	Councillor Eaton	26 March 2008	Shire Planning
Q023 - Agreement with Central Coast Tourism Inc  (A response will be submitted to Council at the 14 May 2008 Ordinary Meeting)	Councillor Stewart	26 March 2008	Shire Planning

<b>Notice of Motion</b>	<b>Department</b>	<b>Meeting Resolved</b>	<b>Status</b>
326 - National Natural Disaster Funding  <i>Report required on climate change impacts.</i>	Shire Planning	8 August 2007	A report will be submitted to Council when response from Department of Environment and Climate Change (DECC) is received. Finalisation of Coastline Management Plan is not anticipated until January/February 2009.
440 - Drainage on Tuggerah Straight  <i>Report required on RTA, State Rail Authority and the Member for Wyong responses regarding the blockage at the traffic lights near the Tuggerah Railway Station on Tuggerah Straight.</i>	Shire Services	31 October 2007	A report will be provided when responses received.
470 - Ferry Service between Wyong and The Entrance  <i>Report to be provided on investigation of a wharf and passenger ferry service between Wyong and The Entrance.</i>	Shire Planning	14 November 2007	Report to be submitted following exhibition. A Councillor briefing has been scheduled for May 2008.

**Outstanding Questions Without Notice and Notices of Motion (contd)**

Notice of Motion	Department	Meeting Resolved	Status
<p>009 – Fairer Beach Access for Dog Owners</p> <p><i>That Council review its policies associated with beach access for dogs to provide responsible dog owners greater and fairer use of our Shire's beaches particularly during low usage periods.</i></p>	Shire Planning	23 January 2008	A report will be submitted to Council at the 23 April 2008 Ordinary Meeting.
<p>106 – Expedition of Toukley Planning Strategy</p> <p><i>That Council encourage the State Government to expedite the Central Coast Regional Strategy. That Council recognise the planning driver, "The Wyong Shire Settlement Strategy" as a key focus area for Council's Planning Department, be adequately resourced and included in the 07/08 – 08/09 Management Plans. That staff brief Council on the now completed Toukley Economic Feasibility Study.</i></p>	Shire Planning	12 March 2008	Letter sent. Briefing being scheduled for May 2008.
<p>107 – Pipeline Corridor Quarantine Zone</p> <p><i>That Council make urgent representations to Planning Minister Sartor to refuse Wallarah 2 application for longwall mining in Wyong Region. If approval granted for long wall mining: Pipeline Corridor be quarantined from mining, Wallarah 2 be requested to fund all costs associated with engineering requirements for combat subsidence. That a pipeline bond fund be established to cover event of pipeline failure.</i></p>	Shire Planning	12 March 2008	Letter sent to the Minister for Planning.
<p>109 – Council's Landholdings</p> <p><i>Report to be provided on Council's landholdings in the Warnervale area including details of current and projected use, zonings and value.</i></p>	General Manager's Unit	12 March 2008	A report will be submitted to Council's Ordinary Meeting in May 2008.

### **Outstanding Questions Without Notice and Notices of Motion (contd)**

Notice of Motion	Department	Meeting Resolved	Status
<p>110 – Submission for Black Spot Funding</p> <p><i>That Council formally make submission to the black spot funding program for a roundabout intersection on Wyong Road and Tuggerah Straight and Cobbs Road/F3 interchange. That Council advise the Roads and Traffic Authority of the potential for a fatality to occur at both of these locations. Staff report to Council relevant data supporting the submission including traffic volumes and accident history.</i></p>	<p>Shire Services</p>	<p>12 March 2008</p>	<p>Relevant supporting data is being collected for the completion of the funding application.</p> <p>A report will be submitted to Council at the 28 May 2008 Ordinary Meeting.</p>

9 April 2008  
To the Ordinary Meeting of Council

Shire Planning Department

### **Answers to Questions Without Notice**

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#### **Q114 – Float trikes**

Asked by Councillor Welham at the Ordinary Meeting held on 14 November 2007  
F2007/01635

*“Could Council staff make representations to the State Member for Swansea, Mr Robert Coombes MP regarding the apparent non action of the State Authorities being the Civil Aviation Service Authority (CASA) and the Maritime Services Authority (MSA) in relation to the illegal float trike operation taking place at Sandy Beach, Lake Macquarie. In particular Council is aware of specific noise complaints regarding this activity which are the responsibility of CASA and MSA to follow up and control. Could Council staff report back on the outcome of these representations?”*

The Civil Air Aviation Authority (CASA) and Recreational Aviation Australia (RA-Aust) have confirmed that the site has been approved in the past as a satellite training facility for flight training for this style of aircraft. At the request of Council, CASA directed RA-Aust to conduct an inspection of the site to confirm the site was operating within the approval issued by CASA.

CASA and RA-Aust have now reported back to Council and have advised that the facility which operated under the name of Float Trikes no longer has any current approvals as a flight training facility on this site. The operator/resident has also confirmed this and advised that flight training will no longer be carried out on this site. A copy of this correspondence has been circulated to Councillors.

To date, Council has not received a response from the State Member for Swansea Mr Robert Coombes in relation to this matter.



## **Answers to Questions Without Notice (contd)**

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### **Q006 – Misuse of Ratepayers Funds**

Asked by Councillor Best at the Ordinary Meeting held on 13 February 2008  
F2004/08792

*“Mr General Manager, I am seeking information and advice with regard to assertions made by the Member for Wyong, Mr David Harris, in his correspondence dated, 16 January 2008, outlining his concerns regarding the independence and transparency of Council's recent poll on Central Coast Water Supply. Mr Harris indicates he believes that the poll smacked of propaganda and was a blatant misuse of ratepayer's funds. Further he has referred the issue to the Minister for Local Government, Mr Paul Lynch, seeking thorough investigation. Could the General Manager please provide information on who formulated the questions, who finally approved the questions and in Council's view has there been any breaches with regard to expenditure of ratepayer's funds? Also could the General Manager provide the total cost of formulating, conducting and analysing the poll and its results?”*

At the briefing session on 13 December 2007, Councillors discussed future actions in regard to the proposed formation of a Central Coast Water Corporation. A consultation and communication programme, including a poll of residents was agreed on.

The preparation of the questions, conducting of the poll and analysing the results was outsourced to an independent company with expertise in this area. The total cost of formulating, conducting and analysing the poll and its results was \$16,160.

Draft questions were initially prepared by this company and with input from the Mayor, General Manager and staff. In the Mayor's absence on leave, the General Manager and staff finalised the questions. There have been no breaches in regard to expenditure of ratepayers' funds.

**Answers to Questions Without Notice (contd)**

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**Q008 – Demolition of Burnt Out Houses in The Entrance Road and Bayview Avenue**

Asked by Councillor Stewart at the Ordinary Meeting held on 27 February 2008  
F2004/00422

*“I am seeking advice on what Council can do to have burnt out houses demolished in both The Entrance Road and at 18 Bayview Avenue?”*

Due to the privacy issues involved, a Councillor Business Update has been forwarded giving the current status of these matters.

## **Answers to Questions Without Notice (contd)**

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

Asked by Councillor Pavier at the Ordinary Meeting held on 12 March 2008  
F2004/07052

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

The Assessment of Significance refers to the seven factors that must be considered to determine whether an action, development or activity is likely to significantly affect a threatened species, population or ecological community.

The time required for an applicant to prepare an Assessment of Significance depends on a number of factors including the ecological characteristics of the study area, the development proposed and the complexity of threatened species issues involved. It could take anywhere between one week and one year for a consultant to undertake field surveys and prepare a threatened species report containing the relevant Assessments of Significance. Completion of Assessments of Significance may be delayed by the need to survey for some flora and fauna species that are only detectable at specific times of year, for example, orchid species that only flower briefly in spring or frog species that only call after heavy rain in summer. The Department of Environment and Climate Change and Council have guidelines that assist applicants in the requirements for surveys of specific species.

Upon submission to Council, an Assessment of Significance could be reviewed within two weeks subject to the correct information being provided and there are minimal threatened species impacts. For complex applications involving potential impacts on threatened species and if further information, additional field studies or re-design is required, it may take between 3 to 12 months for the applicant to provide that information to Council and for Council to process the application.

In cases where the seven part test results in significant impacts, negotiations may take place with the applicant in an attempt to reduce the impact of the development on the ecological community or species. If this approach is not possible, a more detailed study or Species Impact Statement (SIS) would be required.

**WYONG SHIRE COUNCIL**

9 April 2008  
To the Ordinary Meeting of Council

**156**                    **Notice of Motion - Upgrade of Pacific Highway Roundabout at  
Wyong Road, Tuggerah**

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F2004/13054 DJE

Councillor D J Eaton has given notice that at the Ordinary Meeting of Council to be held on Wednesday, 9 April 2008, he will move the following Motion:

- "1    *That Council resolve that the next major road improvement required on state roads within the Shire be the Pacific Highway Roundabout at Wyong Road, Tuggerah.*
  
- 2    *That this resolution be conveyed to the Roads and Traffic Authority and Local State Members."*

## WYONG SHIRE COUNCIL

9 April 2008  
To the Ordinary Meeting of Council

**157                      Notice of Motion - Corridor for Future Rail Track Upgrades**

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F2004/06709 DJE

Councillor D J Eaton has given notice that at the Ordinary Meeting of Council to be held on Wednesday, 9 April 2008, he will move the following Motion:

*"That Council request Cityrail (or appropriate State Government Rail Authority) to confirm it no longer requires a wider corridor through places like Ourimbah and what this decision means for future track upgrades and improved services such as the fast train."*

9 April 2008  
To the Ordinary Meeting of Council

**158**                      **Notice of Motion – Chikarovski Report**

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F2004/07086 DJE

Councillor D J Eaton has given notice that at the Ordinary Meeting of Council to be held on Wednesday, 9 April 2008 he will move the following Motion:

*"That Council reiterate its call for the immediate release of the Chikarovski Report."*