



Council staff take a walk around the recently upgraded Buttonderry Waste Management Facility which now includes eight recycling bays, and education centre, wider access road and a carpark.

ORDINARY MEETING

09 December 2009



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MEETING NOTICE

The **ORDINARY MEETING**
of **Wyong Shire Council**
will be held in the **Council Chamber**,
Wyong Civic Centre, Hely Street, Wyong on
WEDNESDAY 9 DECEMBER 2009 at **5.00 pm**,
for the transaction of the business listed below:

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

RECEIPT OF APOLOGIES

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

Kerry Yates
GENERAL MANAGER

1.1 Disclosure of Interest

TRIM REFERENCE: F2009/00008 - D02081670

AUTHOR: 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 conflicts of interest in matters under consideration by Council at this meeting.

1.2 Inspections

TRIM REFERENCE: F2009/00008 - D02081682

AUTHOR: MR

SUMMARY

No sites have been scheduled for inspection.

RECOMMENDATION

That Council receive the report on Inspections.

1.3 Address by Invited Speakers

TRIM REFERENCE: F2009/00008 - D02081701

AUTHOR: MR

SUMMARY

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

SPEAKERS	REPORT	PAGE NO	DURATION
Mr Greg Smith from MSK Architects will be available to answer questions	3.4 DA 1114/2009 – Proposed Construction of a Recreational Area, Parking and Landscaping at Tuggerah	76	5 minutes
	3.5 DA 612/2009 – Proposed Entertainment Facility and Ancillary Uses, Parking and Landscaping at Tuggerah	94	

RECOMMENDATION

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

1.4 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2009/00008 - D02081704

AUTHOR: MR

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 25 November 2009.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 25 November 2009.

ATTACHMENTS

1 Minutes - Ordinary Meeting - 25 November 2009 D02087167

WYONG SHIRE COUNCIL**MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 25 NOVEMBER 2009
COMMENCING AT 5:05:00 PM**

PRESENT

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

IN ATTENDANCE

GENERAL MANAGER, DIRECTOR SHIRE PLANNING, DIRECTOR SHIRE SERVICES, DIRECTOR CORPORATE SERVICES, ACTING MANAGER FUTURE PLANNING, MANAGER DEVELOPMENT ASSESSMENT, PROJECT DIRECTOR AND TWO ADMINISTRATION STAFF.

EXECUTIVE MANAGER SHIRE SERVICES, MANAGER NATURAL RESOURCES, MANAGER ESTUARY MANAGEMENT, ACTING MANAGER GOVERNANCE AND ADMINISTRATION SERVICES, SENIOR STRATEGIC PLANNER, STRATEGIC PLANNER AND SYSTEMS COORDINATOR CONTRACTS.

THE MAYOR, COUNCILLOR GRAHAM, DECLARED THE MEETING OPEN AT 5.05 PM AND ADVISED IN ACCORDANCE WITH THE CODE OF MEETING PRACTICE THAT THE MEETING IS BEING RECORDED.

THE MAYOR INVITED COUNCILLORS TO REPORT ON;

- COUNCILLOR EATON ON BEHALF OF CENTRAL COAST GROUP TRAINING PRESENTED COUNCIL WITH AN APPRECIATION PLAQUE IN RELATION TO THE ANNUAL EXCELLENCE AWARDS. THE EVENT HELD AT COUNCIL ON 19 NOVEMBER 2009 RECOGNISED LEADING APPRENTICES AND TRAINEES.
- COUNCILLOR WYNN ATTENDED A GOVERNANCE CONFERENCE ON 16 NOVEMBER 2009 AND CO-PRESENTED WITH AN INDEPENDENT MEMBER FROM THE GOVERNANCE COMMITTEE ON 'RUNNING A GREAT AUDIT COMMITTEE'. THE WYONG GOVERNANCE COMMITTEE MODEL WAS REGARDED AS ONE OF THE LEADING MODELS IN THE STATE AND COUNCILLOR WYNN PROPOSED BRIEFING OTHER COUNCILS.
- COUNCILLOR MATTHEWS REPRESENTED THE MAYOR ON 22 NOVEMBER 2009 AT THE EAST COAST SURF FESTIVAL AND SHE COMMENDED SHELLY BEACH ON THE EXCELLENT EVENT AND COUNCIL ON WORK COMPLETED PRIOR TO THE CARNIVAL. COUNCILLOR MATTHEWS SAID SHELLY BEACH PROVED ITSELF TO BE THE APPROPRIATE SITE FOR THE STATE TITLES.

JOHN HARDWICK READ AN ACKNOWLEDGMENT OF COUNTRY STATEMENT AND DELIVERED THE OPENING PRAYER.

APOLOGY

AN APOLOGY FOR THE INABILITY TO ATTEND THE MEETING WAS RECEIVED ON BEHALF OF COUNCILLOR MCNAMARA WHO IS CURRENTLY OVERSEAS ON BUSINESS.

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

That Council accept the apology and grant leave of absence from the meeting.

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

AGAINST: NIL

1.1 Disclosure of Interest

5.8 PROPOSED COUNCILLORS COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR MATTHEWS DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS A VOLUNTARY COORDINATOR OF 2261 OUT OF THE BOX AND NOT PAID AS A RESULT AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR MATTHEWS STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT PAID NOR AM I ON THE MANAGEMENT COMMITTEE AND MAKE NO DECISIONS FOR THAT GROUP."

10.1 UPDATE ON THE LAKE MUNMORAH REZONING REQUEST RZ/7/2004

COUNCILLOR EATON DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT A CLIENT HAS A POTENTIAL DISPUTE WITH WOOLWORTHS, LEFT THE CHAMBER AT 09.24 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 09.48 PM.

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

That Council receive the report on Disclosure of Interest and note advice of disclosures.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

1.2 Proposed Inspections

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

That Council receive the report on Proposed Inspections.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

1.3 Address By Invited Speakers

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

That Council receive the amended report on Invited Speakers.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

1.4 Confirmation of Minutes of Previous Meeting

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

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 11 November 2009.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES

2.1 Notice of Intention to Deal with Matters in Confidential Session

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

1 That Council consider the following matters in Confidential Session, pursuant to Sections 10A(2)(c) and 10A(2)(d) of the Local Government Act 1993:

11.1 - Update on the Lake Munmorah Rezoning Request RZ/7/2004

11.2 – Joint Notice of Motion – Warnervale Airport Site

2 That Council note its reason for considering Report No 11.1 as it concerns commercial information that would, if disclosed, confer a commercial advantage on a competitor of the Council (Section 10A(2)(d)) and Report No 11.2 as it may confer a commercial advantage (Section 10A(2)(c)).

3 That Council request the General Manager to report on this matter in open session of Council.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

3.1 DA 3130/2004/A Proposed Industrial Subdivision at Warnervale

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

- 1 That Council approve the application, having regard to the matters for consideration detailed in Section 96 and 79(c) of the Environmental Planning and Assessment Act, and other relevant issues, subject to the conditions detailed in the schedule attached to the report.**
- 2 That Council advise those who made written submissions of its decision.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

3.2 DA 382/2009 - Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley

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

- 1 That Council, taking into consideration the decision from Department of Planning (DoP) to not grant concurrence to Development Application No 382/2009, refuse the application noting the following:**
 - Under the EP & A Act Council does not have legal authority to approve the development application without concurrence from the DoP.**
- 2 That Council note that in refusing to grant concurrence, the DoP gave the following reasons:**
 - Varying the development standard to the extent proposed is not supported as the objective of the minimum lot size development standard would be undermined through the cumulative effect of similar approvals.**
 - Any review of the minimum lot size development standard in its 7(a) and 7(c) zones should be strategically based and given effect through an LEP amendment rather than through individual development applications.**

In issuing the determination, the above reasons be reworded as appropriate reasons for refusal.

FOR: COUNCILLORS BEST, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: COUNCILLOR EATON

3.3 Update on the Wyong Automotive Racing Precinct (WARP) Project

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

- 1 That Council approach Lower Hunter Local Councils and Gosford City Council to investigate potential sites within these local government areas for an Automotive Racing Precinct.**
- 2 That if the investigations referred to in No 1 above result in a suitable site being identified, Council make available information relating to the research undertaken by staff on this matter.**
- 3 That Council advise those parties that have responded to the questionnaire, provided letters of support or objection of the decision.**
- 4 That with the exception of fulfilling the above recommendations, no further staff resource be utilised in further investigating this project.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, VINCENT, WEBSTER AND WYNN

AGAINST: COUNCILLOR SYMINGTON

4.1 Contract Variations and Finalisation - October 2009

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

- 1 That Council note the variations to contracts in Attachment 1.**
- 2 That Council approve increases to the budgets of the following contracts to provide for further, potential variations:**

2a	Stormwater Treatment Works Project #8	CPA/158923	34,000.00
2b	Supply of Bulk Liquid Chlorine	CPA/107736	40,000.00
- 3 That Council note that changes will be made to the Management Plan to reflect revisions to contract budgets.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

4.2 Contract CPA/138816 - Development of a Commercial Strategy for Council's Waste Management Site at Buttonderry

COUNCILLOR BEST LEFT THE MEETING AT 05:45 PM AND RETURNED TO THE MEETING AT 05:49 PM AS A RESULT TOOK NO PART IN VOTING.

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

- 1 ***That Council accept Tender No 3 Arup Pty Ltd in the lump sum amount of \$202,200.00 (excl GST).***

That Council approve a contingency amount of \$40,000 (excl GST), representing approximately 20% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.

FOR: COUNCILLORS EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

4.3 Contract CPA/145091 - Hire of Minor Plant & Equipment, Contract CPA/145088 - Hire of Plant & Machinery and Contract CPA/145089 - Hire of Tipping Trucks - Option to Extend Contracts for a Further 12 Months

COUNCILLOR BEST LEFT THE MEETING AT 05:45 PM AND RETURNED TO THE MEETING AT 05:49 PM AS A RESULT TOOK NO PART IN VOTING.

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

- 1 ***That Council exercise its option to extend Contract CPA 145091 - Hire of Minor Plant and Equipment for the period 1 February 2010 to 31 January 2011.***
- 2 ***That Council exercise its option to extend Contract CPA 145088 - Hire of Plant and Machinery for the period 1 February 2010 to 31 January 2011.***
- 3 ***That Council exercise its option to extend Contract CPA 145089 - Hire of Tipping Trucks for the period 1 February 2010 to 31 January 2011.***

FOR: COUNCILLORS EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.1 State of the Shire Report 2008/2009

COUNCILLOR BEST LEFT THE MEETING AT 05:45 PM AND RETURNED TO THE MEETING AT 05:49 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR GRAHAM VACATED THE CHAIR AT 05.50 PM AND COUNCILLOR MATTHEWS ASSUMED THE CHAIR.

COUNCILLOR GRAHAM RESUMED THE CHAIR AT 05:51 PM DURING CONSIDERATION OF THIS ITEM.

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

That Council adopt the amended State of the Shire 2008/2009 Report.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.2 Cabbage Tree Harbour Update

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

That Council defer this matter pending a briefing.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.3 Link Road Southern Section - Timing and Funding from Section 94 Development Contributions

COUNCILLOR MATTHEWS LEFT THE MEETING AT 06:32 PM AND RETURNED TO THE MEETING AT 06:33 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR WYNN LEFT THE MEETING AT 06:34 PM AND RETURNED TO THE MEETING AT 06:36 PM DURING CONSIDERATION OF THIS ITEM.

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

That Council not proceed with the southern section of the link road and alter Section 94 development contribution plans accordingly.

The MOTION was put to the VOTE and declared LOST.

FOR: COUNCILLORS BEST, EATON AND WEBSTER

AGAINST: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT AND WYNN

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

- 1 That Council confirm its commitment to proceeding with the southern section of the Link Road, from the Council-owned 'education land' to the roundabout on the Pacific Highway at Watanobbi.**
- 2 That Council seek the support of the member for Wyong, Mr David Harris MP to secure a contribution from the Roads and Traffic Authority (RTA) towards the construction of the Link Road.**
- 3 That the southern section of the Link Road continue to be included in Section 94 development contributions plans.**

FOR: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT AND WYNN

AGAINST: COUNCILLORS BEST, EATON AND WEBSTER

5.4 Adoption of Three Environmental Operational Policies

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

- 1 That Council approve the following three attached Environmental Operational Policies:**
 - a Policy for the Management of Excavated Material.**
 - b Policy for the Storage of Bulk or Excavated Materials at Council Depots and Permanently Nominated Sites.**
 - c Environmental Incident Notification Policy.**
- 2 That the environmental impacts and financial implications be reported to the foreshadowed Environment Committee as part of the annual review of the Policies.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.5 Works on Private Land as Part of the Tuggerah Lakes Estuary Management Plan

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

That Council approve the works detailed in Table A to be carried out on the following properties under the Tuggerah Lakes Estuary Management Plan at no cost to the property owner:

- **Lot 102 DP 793943 Kangy Angy**
- **Lot 1 DP 112609 Mardi**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.6 Annual Report to Minister for Local Government

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

That Council adopt the Annual Report for 2008-09.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.7 Local Preference Policy - Procurement

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

- 1 That Council adopt the draft Local Preference Policy - Procurement (as per Attachment 1).**
- 2 That subject to adoption of Recommendation 1, the Local Preference Policy - Procurement commence from 1 March 2010.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.8 Proposed Councillors' Community Improvement Grants

COUNCILLOR MATTHEWS DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS A VOLUNTARY COORDINATOR OF 2261 OUT OF THE BOX AND NOT PAID AS A RESULT AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR MATTHEWS STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT PAID NOR AM I ON THE MANAGEMENT COMMITTEE AND MAKE NO DECISIONS FOR THAT GROUP."

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

That Council allocate an amount of \$5,600 from the 2009-10 Councillors' Community Improvement Grants as outlined in the report.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.9 2009-10 Management Plan - September 2009 Quarter Review

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

- 1 *That Council receive the report 2009-10 Management Plan – September 2009 Quarter Review.***
- 2 *That Council note the advice from Council's Responsible Accounting Officer that in accordance with the Local Government (General) Regulation 2005 (Part 9 Division 3; Clause 203) that Council's financial position is satisfactory.***
- 3 *That staff report by way of a business update on the timing for recommencement of the Ourimbah Town Centre Strategy.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

6.1 Minutes of the Wyong Shire Governance Meeting - 4 November 2009

COUNCILLOR MCBRIDE LEFT THE MEETING AT 07:13 PM AND RETURNED TO THE MEETING AT 07:14 PM DURING CONSIDERATION OF THIS ITEM.

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

That Council receive the minutes of the Wyong Shire Governance Committee meeting held on 4 November 2009 and the recommendations contained therein be adopted.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

6.2 Minutes - Gosford-Wyong Councils' Water Authority Board Meeting - 18 November 2009

COUNCILLOR BEST LEFT THE MEETING AT 07:23 PM AND RETURNED TO THE MEETING AT 07:24 PM AS A RESULT TOOK NO PART IN VOTING.

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

That Council receive the amended minutes of the Gosford-Wyong Councils' Water Authority Board Meeting held on 18 November 2009 and adopt the recommendations contained therein.

FOR: COUNCILLORS EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.1 Information Reports

COUNCILLOR BEST LEFT THE MEETING AT 07:23 PM AND RETURNED TO THE MEETING AT 07:24 PM DURING CONSIDERATION OF THIS ITEM.

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

That with the exception of report numbers 7.2, 7.4, 7.5 and 7.7 Council receive the information reports and adopt the recommendations.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.2 Results of Coal Mining Survey

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

- 1 That Council receive the report on Results of Coal Mining Survey.**
- 2 That Council forward copies of the report to all local State and Federal Members of Parliament.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.3 Report on the Activities of the Development Assessment Unit

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

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

FOR: COUNCILLORS BEST, EATON, GRAHAM, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.4 Results of Water Quality Testing for Beaches and Lake Locations

COUNCILLOR VINCENT LEFT THE MEETING AT 07:39 PM AND RETURNED TO THE MEETING AT 07:42 PM AS A RESULT TOOK NO PART IN VOTING.

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

That Council receive the report on Results of Water Quality Testing for Beaches and Lake Locations.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, WEBSTER AND WYNN

AGAINST: NIL

7.5 Popularly Elected Mayor

COUNCILLOR VINCENT LEFT THE MEETING AT 07:39 PM AND RETURNED TO THE MEETING AT 07:42 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR WYNN LEFT THE MEETING AT 07:47 PM AND RETURNED TO THE MEETING AT 07:49 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council receive the report on Popularly Elected Mayor.***
- 2 That Council hold a referendum at the next Council elections, subject to Council establishing an agreed representation model.***
- 3 That this matter be further considered at the 2010 Councillor Weekend Workshop.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, VINCENT, WEBSTER AND WYNN

AGAINST: COUNCILLOR SYMINGTON

7.6 Mardi to Mangrove Link Project Status

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

That Council receive the report on Mardi to Mangrove Link Project Status.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.7 General Works in Progress

COUNCILLOR SYMINGTON LEFT THE MEETING AT 07:57 PM AND RETURNED TO THE MEETING AT 08:00 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR MATTHEWS LEFT THE MEETING AT 07:59 PM AND RETURNED TO THE MEETING AT 08:01 PM DURING CONSIDERATION OF THIS ITEM.

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

That Council receive the report on General Works in Progress.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.8 Water and Sewerage - Works in Progress

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

That Council receive the report on Water and Sewerage - Works in Progress.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.9 Outstanding Questions Without Notice and Notices of Motion

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

That Council receive the report on Outstanding Questions Without Notice and Notices of Motion.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

9.1 Joint Notice of Motion - Trial Year Round Life Guard Services

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

1 That having regard to similar such initiatives in other developing regional areas and the broad range of local emerging issues such as population growth, climate change, employment trends, ie part time and shift working and the need for greater coastal environs education, Council in principle support the concept of a trial year round life guard deployment at two selected Shire beaches, subject to a final report of operational and budgetary issues.

2 That this matter be reported on and / or briefed in a timeline that is consistent with achieving inclusion in the draft 2010 budgetary process.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

9.2 Joint Notice of Motion - Climate Change / Coastal Development Policies

THIS ITEM HAS BEEN WITHDRAWN BY COUNCILLOR WYNN AND COUNCILLOR BEST.

9.3 Notice of Motion - Multicultural Committee

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

- 1 *That Council establish a Multi Cultural Committee to assist residents from non English speaking backgrounds.*
- 2 *That a charter for such a Committee be reported to Council for adoption.*
- 3 *That the Committee consist of all interested Councillors.*

The MOTION was put to the vote and declared LOST.

FOR: COUNCILLORS BEST AND EATON

AGAINST: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

9.4 Joint Notice of Motion - Shire Native Botanic Garden

MS MARLENE PENNINGS, TREASURER REPRESENTING TUGGERAH LAKES RESERVE – PIONEER DAIRY TRUST, ADDRESSED THE MEETING AT 8.02 PM, ANSWERED QUESTIONS AND RETIRED AT 8.18 PM.

MR ADRIAN GALE, CHAIRPERSON REPRESENTING TUGGERAH LAKES RESERVE – PIONEER DAIRY TRUST, ADDRESSED THE MEETING AT 8.08 PM, ANSWERED QUESTIONS AND RETIRED AT 8.09 PM.

It was MOVED by Councillor MCBRIDE and SECONDED by Councillor MATTHEWS:

- 1 *That Council consider the development of a native botanic garden within the Shire.*
- 2 *That staff report on appropriate sites, costing and community engagement.*

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

That Council reconfirm its support for a Native Botanical Garden at the Pioneer Dairy.

The AMENDMENT was put to the VOTE and declared LOST.

FOR: COUNCILLORS BEST, EATON, WEBSTER AND WYNN

AGAINST: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON AND VINCENT

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

That this matter be deferred pending a briefing and site inspection on the Pioneer Dairy.

The AMENDMENT was put to the vote and declared CARRIED.

FOR: COUNCILLORS BEST, EATON, SYMINGTON, WEBSTER AND WYNN

AGAINST: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE AND VINCENT

The AMENDMENT became the MOTION.

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

That this matter be deferred pending a briefing and site inspection on the Pioneer Dairy.

FOR: COUNCILLORS BEST, EATON, SYMINGTON, WEBSTER AND WYNN

AGAINST: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE AND VINCENT

CONFIDENTIAL SESSION

AT THIS STAGE OF THE MEETING BEING 9.26 PM COUNCIL MOVED INTO CONFIDENTIAL SESSION WITH THE MEMBERS OF THE PRESS AND PUBLIC EXCLUDED FROM THE MEETING OF THE CLOSED SESSION AND ACCESS TO THE CORRESPONDENCE AND REPORTS RELATING TO THE ITEMS CONSIDERED DURING THE COURSE OF THE CLOSED SESSION BEING WITHHELD. THIS ACTION IS TAKEN IN ACCORDANCE WITH SECTION 10A OF THE LOCAL GOVERNMENT ACT, 1993 AS THE ITEMS LISTED COME WITHIN THE FOLLOWING PROVISIONS:-

“2(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

2(d) commercial information of a confidential nature that would, if disclosed;

(i) prejudice the commercial position of the person who supplied it, or

(ii) confer a commercial advantage on a competitor of the Council, or

(iii) reveal a trade secret.”

OPEN SESSION

COUNCIL RESUMED IN OPEN SESSION AT 10.22 PM AND THE ACTING GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

10.1 Update on the Lake Munmorah Rezoning Request RZ/7/2004

- 1 ***That Council receive and note the report on the progress of the Lake Munmorah rezoning request.***
- 2 ***That Council thank the applicant for the current offer to contribute to the provision of a shared pathway network to provide safe pedestrian and cycle connections to the site from the existing residential areas of Lake Munmorah and Chain Valley Bay, and advise the applicant that Council considers that a more reasonable contribution would be a minimum amount of \$1,250,000 for this essential link.***
- 3 ***That the applicant be requested to consider the provision of a medical centre as part of Stage 1 of the proposal.***
- 4 ***That Council pursue other funding sources to fund the construction of the remainder of the shared pathway scheme in the area.***
- 5 ***That Council consider including the cost of the remaining unfunded section of the shared pathway in a future contributions plan if the North Wyong Shire Structure Plan identifies further residential opportunities in the area to be serviced by the shared pathway.***

10.2 Joint Notice of Motion - Warnervale Airport Site

- 1 ***[Confidential Resolution – see note below].***
- 2 ***That Council endorse the actions of the Mayor and General Manager in dealing with Mirvac's offers in line with the Councillor update in regard to Warnervale Airport.***
- 3 ***That Council obtain an independent valuation of the site and report back to Councillors at a confidential briefing.***
- 4 ***That Council convene a confidential briefing as soon as possible on issues associated with the Warnervale Airport Site and also receive briefings from Mirvac, Aldi, Warnervale Aero Club, Terrace Towers and any other relevant parties or advisors.***

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

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 10.23 PM.

.....
CHAIRPERSON

2.1 Notice of Intention to Deal with Matters in Confidential Session

TRIM REFERENCE: F2009/00008 - D02085164

AUTHOR: MR

SUMMARY

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

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

RECOMMENDATION

- 1 That Council consider the following matters in Confidential Session, pursuant to Sections 10A(2)(d) of the Local Government Act 1993:**

Item 12.1 Provision of Temporary Professional Resources

- 2 That Council note its reason for considering Report No 12.1 in confidential session is that discussion is anticipated which concerns commercial information of a confidential nature that would, if disclosed:**

- (i) prejudice the commercial position of the person who supplied it, or***
- (ii) confer a commercial advantage on a competitor of the Council, or***
- (iii) reveal a trade secret,***

should the discussions be held in a non-confidential environment.

- 3 That Council request the General Manager to report on this matter in open session of Council.**

Note: Explanation - Section 10A of the Local Government Act 1993 states:

"2(d) commercial information of a confidential nature that would, if disclosed:

- (i) prejudice the commercial position of the person who supplied it, or***
- (ii) confer a commercial advantage on a competitor of the Council, or***
- (iii) reveal a trade secret,"***

3.1 Probity Report - Mariners FC Development

TRIM REFERENCE: F2009/02441 - D02092679

AUTHOR: DJ

SUMMARY

Council is to consider Development Applications (2) in respect of a proposed development by for the Mariners Football Club Inc. on existing Club Tuggerah site and adjoining Council property.

It has been considered prudent to conduct a probity review of Council sponsorship arrangements with the Mariners, how that relationship impacted negotiations between the Mariners (or their agent) and Council, and finally the probity of the DA processes as they impact the proposed development.

RECOMMENDATION

- 1 *That Council note the probity report from O'Connor and Marsden.*
- 2 *That Council adopt the recommendations therein namely:-*

Recommendation 1:

That Council implement the draft Sponsorship Policy that has recently been prepared as soon as possible to ensure that there is a documented and consistent approach to determining sponsorship arrangements including pre-determined criteria for assessing sponsorship proposals.

Recommendation 2:

That Council seek legal advice regarding the sponsorship agreement entered into with the Mariners Football Club to ensure that the specific terms of the sponsorship agreement are clearly articulated and there are sufficient provisions in the agreement to allow Council the ability to terminate the agreement if the terms of the agreement are not met.

Any amendments to be made to the sponsorship agreement should be consistent with the ICAC's sponsorship principles, particularly Principle 6 (refer below).

Recommendation 3:

That Council adopt a clear separation of roles between the individuals and divisions involved in the management of the sponsorship arrangement and those involved in planning and assessment of the Mariners development applications.

The separation of these roles will assist Council in adhering to ICAC sponsorship Principle 3 and promote an open and transparent process for the development application assessment.

Recommendation 4:

That Council ensure that its Annual Report contains information in relation to all sponsorship arrangements entered into during the financial year, including the amount of the sponsorship and the benefits provided to Council and the other parties to the agreement in response for the financial sponsorship.

Recommendation 5:

That Council ensures that it is appropriately documented the reasons why Cr Graham's interest changed from non-pecuniary to pecuniary and that the management strategies to be adopted to manage the interest are clearly documented.

Recommendation 6:

That Council seek input from Cr Graham supported, where appropriate, by legal advice in relation to the declaration by him in Council meetings leading up to and including 11 February 2009 of a non-pecuniary interest in light of his position as an office holder on the Mariners' Board of Directors.

Recommendation 7:

That Council seek independent assistance with the assessment of a development application where there are elements of Council having dual roles. The consideration of the risks associated with dual roles should be properly documented and any decisions made on the strategies to be adopted to manage the risks should be approved by the relevant authority, such as the General Manager or the relevant Director.

BACKGROUND

Council resolved at the Ordinary Meeting held on 26 August 2009 in part :

"4 That Council engage a probity advisor to conduct a probity assessment and oversight of the Mariner's sponsorship and development."

Turnbull Group Developments Pty Ltd on behalf of the Mariners Football Club Unit Trust has approached WSC with Development Applications (2) to develop the Club Tuggerah site and adjoining WSC land as a "home base" for the Mariners.

WSC is a substantial sponsor of the Mariners Club over recent years and Cr Graham is a current Director of the Club.

WSC has been concerned to ensure that its dealings with the applicant are transparent and proper in all respects. To that end the services of an independent probity auditor were sought.

O'Connor & Marsden are a recognised and respected company operating in the specialty area of probity advice and audit. They are an identified provider on the ICAC list of recognised probity auditors

CURRENT STATUS

The report from OCM is presented as an attachment to this paper.

It documents the brief and process undertaken by OCM and details their findings. Their recommendations flow from that detail.

The draft report was reviewed by management staff for its factual accuracy and for the applicability of the recommendations made by the reviewer. It is acknowledged that the advice put forward by the report, will enhance the probity of WSC operations and provide Council with demonstrable evidence that transparent and proper behaviour is present in WSC dealings of this nature.

CONCLUSION

Commissioning the independent probity report has provided Council with assurances and recommendations of a value not possible from internal self reviews.

The probity auditors have measured our activities in relation to the Mariners development against ICAC guidelines and demonstrated that while there are some issues to be addressed, no significant matters have come to light.

Generally the recommendations made by OCM point to matters of process documentation and separation of dual roles or potential conflicts of interest.

It is prudent that Council adopt the recommendations put forward.

ATTACHMENTS

- | | | |
|---|--|-----------|
| 1 | OCM Final Probity Report_Wyong Shire Council Mariners FC Review -
December 2009 | D02097768 |
|---|--|-----------|



Wyong Shire Council

Probity Review: Mariners Sponsorship Arrangements and DA Assessment

2 December 2009

Mr David Jack
Director, Corporate Services
Wyong Shire Council
PO Box 20
Wyong NSW 2259



**O'Connor Marsden
& Associates**
ABN 94 135 783 732
1 York Street
Sydney NSW 2000
T: +61 9252 2565
www.ocm.net.au

2 December 2009

Dear David,

Re: Probity Report regarding the review of the Mariners Football Club Sponsorship Arrangements and the assessment process for the Mariners' Development Applications

O'Connor Marsden and Associates (OCM) has been engaged to provide probity services to Wyong Shire Council (Council) in accordance with our proposal dated 13 November 2009.

You have requested that OCM provide Council with a probity report in relation to the review of the current sponsorships arrangements between Council and the Mariners Football Club, which have been in place since 2007. In addition, Council has requested that OCM provide a report on the probity review of the process followed by Council for the assessment and recommendation to full Council on the Mariners' Development Applications.

In this capacity, OCM has set out its report below in regard to probity aspects of the DA approval process, including observations made on the strategies in place to manage issues of Council's dual role as both an owner of land the subject of an aspect of the development application and the consent authority. The observations and comments made in this report are based on the discussions and interviews held with key Council staff as well as a desk top review of records maintained of sponsorship arrangements and the DA assessment process.

If you require any further information or wish to clarify any matters, please contact me on (02) 9252 2565 or Sarah Mullins on 0413 443 374.

Yours sincerely

Rory O'Connor
Managing Director

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1 Executive Summary

1.1 Introduction

At the request of Wyong Shire Council, NSW, O'Connor Marsden and Associates (OCM) has undertaken a probity review of the sponsorship arrangements with the Mariners Football Club as well as the process in place for the assessment of the Mariners development applications. The engagement was performed in accordance with Australian Standard on Assurance Engagements ASAE 3000, *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*.

Further information in relation to the extent of the procedures performed and the scope of our engagement is detailed below and in the Statement of Responsibility in **Appendix D**.

1.2 Background

The Mariners Football Club wish to develop the existing Club Tuggerah site (owned by the Wyong RSL) as the home base for the club. To ensure the facility has the best "fit for purpose" the Club wishes to develop adjacent Council land as playing fields. This land is currently zoned 5a, "special use".

Turnbull Group Developments Pty Ltd has approached Council on behalf of Mariners FC Unit Trust requesting a lease of Council land Lots 62 - 64, 71 - 73 and 80 - 89 DP 4008 and unformed public road at Church Road, Tuggerah for use as playing fields in association with a proposal for the redevelopment of the adjoining Club Tuggerah sites.

Council has acknowledged a willingness to accommodate the Mariners' request subject to all appropriate approvals and compliance with the conditions previously placed on the council land by virtue of its current use as a sewerage buffer zone.

Council has been an active sponsor of the Club in recent years. Council is currently party to a tripartite agreement (with Gosford City Council and State and Regional Development) for the sponsorship of the Mariners Football Club. Since the commencement of this sponsorship arrangement in 2007, Council has provided financial sponsorship to the Club to the value of more than \$400,000. We understand from the briefing provided by Council for this engagement that the basis of the sponsorship is the economic return expected to the Central Coast Region to be generated as the outcome of the Club's international profile and success.

The previous and current Councils have been active in promoting the Club and Council's involvement as a sponsor. Individual councillors have been active in the relationship, including the Mayor, Cr Bob Graham, who is a current Director on the Mariners Board of Directors. We have confirmed via review of relevant documentation that this conflict of interest is declared at Council meetings and Cr Graham has previously removed himself from Council meetings when the sponsorship arrangements have been agreed to by Council.

It is against this background that Council has asked OCM to provide a probity review of:

1. The sponsorship arrangements between Council and the Mariners Football Club
2. The process followed by Council for the lodgement and assessment of the Mariners Football Club's development applications relating to the above site.

We note that, at the time the sponsorship arrangements with the Mariners Football Club commenced, the Code of Conduct in place (the March 2005 version) provided guidance to staff on sponsorship arrangements.

1.3 Objectives

As detailed in our proposal dated 13 November 2008, the overall objective of our engagement was to provide a conclusion, based on the work performed, as to whether anything came to our attention to indicate that the process for the assessment of the Mariners' development applications as well as for entering into the sponsorship arrangements with the Mariners did not comply with the probity principles in all material aspects. If considered appropriate, OCM was also to provide observations and/or recommendations in relation to the probity aspects of the above processes, particularly in regard to procedural fairness and equity.

1.4 Scope

In accordance with generally accepted probity principles, we have focused on Council's sponsorship and planning decision making in regard to:

- accountability of the participants and transparency of the process
- fairness, impartiality and honesty in carrying out the process
- management of actual, potential and perceived conflicts of interest
- maintenance of confidentiality and security of documentation and information (where relevant).

A detailed description of the probity principles can be found attached at **Appendix C**.

1.5 Methodology

In line with the briefing provided by Council for the completion of this probity review, our methodology for the review of the sponsorship arrangements and the DA assessment process is outlined below. It should be noted that we have not spoken with Cr Bob Graham in relation to the matters identified for review and the issues raised in this report, particularly with regard to the pecuniary conflict of interest.

Stage	Overview
	Council's sponsorship of the Mariners
<i>Review of sponsorship arrangements</i>	<ul style="list-style-type: none"> • Reviewed documentation maintained of the sponsorship arrangements, including Council resolutions and copies of the signed agreement • Held discussions with key Council offices involved in the commencement of the sponsorship arrangements • Reviewed the process for entering into sponsorship arrangements in light of any legislative and policy requirements as well as better practice relating to these types of arrangements, including the ICAC's sponsorships guidance material¹ • Reviewed the financial value of sponsorship arrangements compared with other sponsorship arrangements currently in place within Council • Reviewed the process in place to manage conflicts of interest, pecuniary and non-pecuniary interests, in accordance with the requirements of the Local Government Act 1993

¹ Independent Commission Against Corruption: Sponsorship in the Public Sector (May 2006)

Stage	Overview
Development Application assessment process	
<i>Origin of the discussions between Council and the Mariners and negotiation pre-DA lodgement</i>	<ul style="list-style-type: none"> • Reviewed documentation maintained of meetings and negotiations between Council and the Mariners prior to the lodgement of the development applications, including meetings held between Mr Gary McLachlan, the Duty Planner and the Mariners • Reviewed policies, procedures and legislative requirements relating to development applications and the use of Council owned land • Held discussions with key Council officers involved in the pre-lodgement discussions with the Mariners.
<i>Review of the rights to lease the land</i>	<ul style="list-style-type: none"> • Reviewed the legislative and policy requirements regarding the use of Council land for this purpose, particularly the lease of this land • Reviewed the justification for entering into negotiations with the Mariners for the lease of the Council owned land rather than through an open and competitive process.
<i>Review of the development applications' assessment process</i>	<ul style="list-style-type: none"> • Reviewed Council policies and procedures (in conjunction with the Environmental Planning and Assessment Act) in relation to the development application assessment process • Reviewed the process undertaken to assess the Mariners' development applications, including the process in place to manage any potential, perceived or actual conflicts of interest during this process • Held discussions with individuals from Council's Development Assessment Unit involved in the assessment of the development applications • Reviewed the records maintained of the development application assessment process, including any reports to Council as a Whole on the outcome of the DA assessment.
<i>Impact of the sponsorship on the DA assessment process</i>	<ul style="list-style-type: none"> • Held discussions with key Council officers regarding the development application assessment process to understand the impact on the assessment of the current sponsorship arrangements.
Review of associated landholdings	
<i>Review of negotiations and arrangements for use of Council land</i>	<ul style="list-style-type: none"> • Reviewed legislative and policy requirements in relation to the use of Council owned land • Reviewed the development application assessment process to determine the extent of consideration given to the use of other Council owned land to assist these development applications and the need for any potential, actual or perceived conflicts of interest to be identified and managed.

1.6 Key findings

1.6.1 Commencement of the Sponsorship arrangements

At the time that the sponsorship arrangement was first commenced, Council did not have a sponsorship policy in place (nor any related selection criteria). It is recognised, however, that the Code of Conduct in place at the time did provide some guidance to staff and Councillors in relation to sponsorship arrangements. The 2005 Code of Conduct provides guidelines that should be followed when considering entering into a sponsorship arrangement. At a high level, these guidelines align with the ICAC's ten sponsorship principles (refer below).

However, there appear to be some areas of the 2005 Code of Conduct that were not adhered to, such as section 12.6.8 (vii) which states that, generally, sponsorships should be sought by calling expressions of interest. Further, it states that when a decision is made to not offer sponsorships widely, the reasons for doing so should be clearly documented. We did not identify anything to suggest that this was the case in relation to the Mariners Sponsorship Agreement.

Council adopted a new Code of Conduct in October 2008, which was in line with the Department of Local Government Model Code of Conduct. This version of the Code of Conduct did not include the guidance material in relation to sponsorship arrangements. When Council resolved to adopt the Model Code of Conduct, and remove the sponsorship guidance from the Code, no action appears to have been taken until recently to develop a separate Sponsorship Policy. Further, there does not appear to be in place any procedures for the identification of opportunities for sponsorship arrangements or to ensure that the decisions Council has made in relation to sponsorship are assessed in a clear, open and transparent manner.

We note from discussions with key Council personnel that Council has commenced developing a Sponsorship Policy and we understand that the timeframe for implementing this policy is in the next few months.

Further, we note from discussions with Mr Ruffels, General Manager, Business Central Coast, that there was no sponsorship agreement in place at the commencement of the sponsorship arrangements which was signed by all parties and outlined the specific details of the arrangement. For example, when the sponsorship was first endorsed by Council (via Council resolution) there was no signed agreement which outlined the amount of the financial sponsorship to the Mariners from Council and the expectations Council had in return for the financial sponsorship. This appears to be inconsistent with clause 12.6.8 (ix) of the Code of Conduct that was in place at the time, which states that "a sponsorship agreement is a contract and should be described in a written agreement." There is a sponsorship agreement in place currently; however, it appears there is limited provision in the agreement for Council to terminate it if the terms of the agreement are not met.

1.6.2 Compliance with the ICAC's Sponsorship Principles

The ICAC's publication titled *Sponsorship in the Public Sector* (May 2006) refers to ten sponsorship principles for NSW public sector agencies to manage corruption risks associated with sponsorship in the public sector. As part of the review, OCM considered Council's compliance with these principles based on the information available to us during the review, including discussions with key Council staff and review of relevant documentation. The review indicates that Council does not appear to comply with elements of six of the ten ICAC sponsorship principles (namely, Principles 3, 6, 7, 8, 9 and 10).

1.6.3 Identification and management of pecuniary conflicts of interest

It was noted during the review that Cr Bob Graham declared a significant conflict of interest in Council meetings (noting that he was a member of the Mariners Football Club's Board of Directors) where points of business related to that body. The nature of this conflict was declared as 'non-pecuniary' in four meetings observed (in October 2006, December 2007 and February 2009) and as a

pecuniary interest in the meeting in August 2009 to review the June Quarter of the 2008-09 Management Plan.

Section 443 of the *Local Government Act 1993* states that a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- the person, or
- the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, or
- a company or other body of which the person, or a nominee, partner or employer of the person, is a member.

Section 443 (3) of the Act also states that a person is not seen to have a pecuniary conflict of interest just because the person is a member of a company as long as the person has no beneficial interest in any shares of the company or body. However, section 443 (1)(c) of the Act indicates that being a member of an organisation or club would constitute a pecuniary interest if the person is an office holder of the organisation.

Notwithstanding the above, we noted that the management strategy adopted by Cr Graham for this interest (removing himself from relevant meetings) is consistent with the management strategy that is required under the *Local Government Act 1993* for the management of pecuniary interests.

In addition, we identified during the review an instance where Councillors, namely Cr Graham and former Councillors Brenton Pavier, attended meetings with property developers and Council staff on 11 October 2007. There are two issues in relation to this meeting:

1. The attendance at this meeting by Cr Graham appears to be inconsistent with the approach adopted for all Council meetings where he has removed himself from any discussions on Council's relationship with the Mariners'. Cr Graham attending this meeting can have the effect of blurring the boundary between his role as a Wyong Shire Councillor and Mayor of the Council and his role as a Director on the Mariners' Board of Directors. As such, this could potentially create a perception that the Mariners' are receiving favourable treatment during the development application process as one of their Directors is Council's Mayor.
2. The attendance at this meeting by Cr Graham could be perceived as inconsistent with the Code of Conduct as it relates to inappropriate interactions between Councillors and Council staff in terms of development applications lodged by Councillors.

It should be noted that we have not discussed the above observations with Cr Graham during the course of undertaking this review and recommend that Cr Graham input be sought in this regard.

1.6.4 Management of Council's dual roles

We understand from discussions with Ms Danielle Dickson, Manager Development Assessment, that Council gave consideration to the need to manage its dual roles. However, based on the limited involvement of Council in the initial stages of the pre-lodgement discussions and assessment of the development applications, it was considered that obtaining an independent planner to do the assessment was not warranted relevant to the level of risk. Specifically, we understand from Ms Dickson that Council's process is that Council will provide independent planning assessment for applications where Council is the proponent / or landholder of a significant activity/development that is likely to be controversial. In these circumstances, Council considered that this was not the case for the Mariners' development applications.

However, as the involvement of Council, particularly with the use of Council land for the development application relating to the playing fields, increased as time progressed it does not appear that Council formally reviewed its position on whether the dual roles required the involvement of an independent third party to assess the development application. We note advice from Ms Dickson that Council land became further involved as an environmental offset post-lodgement of the development application. The rehabilitation of the identified land is consistent with Council's strategic plans which

identify this land as an environmental corridor. As such, Council considered that this was a public benefit of the application.

Notwithstanding the above, we noted from our discussions with Ms Dickson and Ms Pendergast, Senior Planner, that there was a level of segregation between the Property Division within Council, who would have provided the approval to the Mariners to lodge the development application utilising Council land, and the Development Assessment Group. There is also a noted segregation of roles between the Business Development Manager and development application assessment staff. These instances of segregation of roles can assist Council in demonstrating that an open and transparent process has been followed for the assessment of the development application where Council has dual roles.

Further, we sighted an extract from Council's Management Plan for 1998-99 which stated, at section 1.2.9, that one of Council's objectives was to "develop a National standard sports facility, within the Region, which will attract a "high profile" team to participate in a National competition and use the facility as a home base." Council has indicated that at the time of the sponsorship decision the above management plan was the active plan.

1.7 Recommendations

R1: That Council implement the draft Sponsorship Policy that has recently been prepared as soon as possible to ensure that there is a documented and consistent approach to determining sponsorship arrangements including pre-determined criteria for assessing sponsorship proposals.

R2: That Council seek legal advice regarding the sponsorship agreement entered into with the Mariners Football Club to ensure that the specific terms of the sponsorship agreement are clearly articulated and there are sufficient provisions in the agreement to allow Council the ability to terminate the agreement if the terms of the agreement are not met. Any amendments to be made to the sponsorship agreement should be consistent with the ICAC's sponsorship principles, particularly Principle 6 (refer below).

R3: That Council adopt a clear separation of roles between the individuals and divisions involved in the management of the sponsorship arrangement and those involved in planning and assessment of the Mariners development applications. The separation of these roles will assist Council in adhering to ICAC sponsorship principle 3 and promote an open and transparent process for the development application assessment.

R4: That Council ensure that its Annual Report contains information in relation to all sponsorship arrangements entered into during the financial year, including the amount of the sponsorship and the benefits provided to Council and the other parties to the agreement in response for the financial sponsorship.

R5: That Council ensures that it is appropriately documented the reasons why Cr Graham's interest changed from non-pecuniary to pecuniary and that the management strategies to be adopted to manage the interest are clearly documented.

R6: That Council seek input from Cr Graham supported, where appropriate, by legal advice in relation to the declaration by him in Council meetings leading up to and including 11 February 2009 of a *non-pecuniary interest* in light of his position as an office holder on the Mariners' Board of Directors.

R7: That Council seeks independent assistance with the assessment of a development application where there are elements of Council having dual roles. The consideration of the risks associated with dual roles should be properly documented and any decisions made on the strategies to be adopted to manage the risks should be approved by the relevant authority, such as the General Manager or the relevant Director.

2 Work performed

2.1 Sponsorship history and arrangements

O'Connor Marsden and Associates has undertaken the following tasks to confirm controls adopted by Council to maintain probity in Council's management of its sponsorship of the Mariners Football Club:

1. Reviewed the Code of Conduct (March 2005 version) and noted that it contained a significant level of guidance to staff in relation to sponsorship arrangements and the requirements when entering into such an arrangement. The relevant extract of the 2005 Code of Conduct can be found at Appendix C.
2. Interviews with Council staff indicated that all documentation related to the Mariners sponsorship arrangement had been provided for this review, but documents indicating from whom or where the sponsorship proposal was initiated were not identified. On the basis of our discussions with key Council offices it appears that documentation in relation to the commencement of the sponsorship arrangement has been maintained, outside of the Council resolution approving the initial funding.
3. Sighted the media release *Council considers sponsorship of Central Coast Mariners* dated 9 October 2006 stating that Council was considering an 'innovative sponsorship proposal'. The proposal was referred to as a joint partnership with Gosford Council and the NSW Department of State and Regional Development contributing \$80,000 each, with the Councils contributing a further \$30,000 during the current financial year. Conditions of the agreement included: Central Coast logo to appear on back and front of the Mariners strip, merchandise, the Mariners flag, media and promotional material, as well as on the Club's website.
4. Reviewed the minutes of the meeting of Council on 11 October 2006 when the sponsorship proposal was considered and noted the following:
 - a. Cr Graham declared his membership of the Central Coast Mariners Board of Directors as a significant non-pecuniary interest.
 - b. The original motion showed Wyong Council's \$80,000 being provided from Business Central Coast (BCC) project funds and the \$30,000 coming from the funds provided to Central Coast Tourism.
 - c. An alternate motion was put to change the source of funding of the \$30,000 from Central Coast Tourism's allocation to the current budget allocation and for it to be reconsidered in future quarterly reviews. This motion was lost.
 - d. That BCC would manage the partnership.
5. Sighted a rescission notice made on 12 October 2006 to change the source of funding of the \$30,000 from Central Coast Tourism's allocation to Council's current budget.
6. Reviewed the minutes of the meeting of Council on 25 October 2006 when the notice of rescission regarding the Mariners was considered and noted the following:
 - a. Cr Graham declared his membership of the Central Coast Mariners Board of Directors as a significant non-pecuniary interest.
 - b. The rescission was carried unanimously, and the Mariners were asked to provide Council with a copy of their latest audited financial statements and their current itemised budget and business plan, if appropriate.

7. Observed, by way of review, the signed sponsorship agreement dated 1 February 2007 and noted:
 - a. The term was from 22 January 2007 until the completion of the 07/08 A-League Grand Final,
 - b. \$300,000 in total funding (Wyong Council's share being the \$110,000 noted above), and
 - c. The benefits accruing as a result of the sponsorship (covering branding; advertising, promotion and marketing; tickets, and corporate hospitality conditions)
8. Observed, by way of review, various emails regarding other funds flowing from Council to the Mariners to support their fund raising for the Make-A-Wish Foundation. For example, we observed that Cr Graham donated \$1,000 from his CCIG allocation and encouraged other Councillors to do the same. The total amount Council sent to the Mariners was \$7,700.
9. Reviewed the minutes of the meeting of Council on 12 December 2007 where further sponsorship of the Mariners was considered and noted the following:
 - a. Cr Graham declared his membership of the Central Coast Mariners Board of Directors as a significant non-pecuniary interest.
 - b. It was resolved that \$105,000 would be funded from the Economic Development project funds for the continued sponsorship of the Mariners.
 - c. Council saw merit in the establishment of a football complex and agreed that a briefing be held to outline the proposal. It was agreed that senior staff would meet with Government agencies and the Mariners to progress the complex.
10. Reviewed the minutes of the meeting of Council on 11 February 2009 where further sponsorship of the Mariners was considered and noted the following:
 - a. Cr Graham declared his membership of the Central Coast Mariners Board of Directors as a significant non-pecuniary interest.
 - b. It was resolved that \$200,000 funds would be allocated for the continued funding of the Mariners. This included an additional \$100,000 towards the Mariners participation in the 2009 Champions League Trophy Tournament.
 - c. It was resolved that \$12,000 would be allocated to the BCC to project manage the sponsorship arrangement on behalf of Council.
 - d. The BCC was required to provide a detailed report on the benefits to the Central Coast region in the Mariners participating in the Champions League event noted above.
11. Sighted a letter dated 29 June 2009 from the Manager Business Development noting the BCC's eleven obligations in return for the \$12,500 payment noted in 9 c. above.
12. Reviewed the minutes of the meeting of Council on 26 August 2009 where the June Quarter Review of the 2008-09 Management Plan and noted the following:
 - a. Councillor Graham declared his membership of the Central Coast Mariners Board of Directors as a significant pecuniary interest.
 - b. It was resolved unanimously that the report be received and noted and Council endorsed the budget carryovers, also noting that the Council's financial position was satisfactory.
 - c. It was resolved unanimously that a probity auditor be engaged to conduct an assessment and oversight of the Mariners sponsorship and development.
13. Reviewed the Council Annual Report data relating to the total amount of expenditure by Council on sponsorships arrangements as well as the amount of the sponsorship arrangements with the Mariners represented as a percentage of the total amount:
 - a. The sponsorship funding to the Mariners as a proportion of the total reported declined slightly over the three years:

- i. 06/07-\$110,000 (which represented 11.5% of total expenditure on sponsorship arrangements by Council during the financial year)
 - ii. 07/08-\$100,000 (which represented 10.2% of total expenditure on sponsorships by Council during the financial year)
 - iii. 08/09-\$100,000 (which represented 8.9% of total expenditure on sponsorships by Council during the financial year). A further \$100,000 was provided in 08/09 to facilitate the Mariners' participation in the Asian Cup, and this additional amount took the total percentage for 08/09 to 17.8% of the total sponsorship expenditure.
14. Observed during the review a record of a Strategic Planning Department meeting dated 11 October 2007 requested by Peter Turnbull (Turnbull Group Developments) to discuss potential sites for a soccer training facility. It was noted that Cr Brenton Pavier attended this meeting, in his role as Councillor. However, Cr Bob Graham is noted as representing Mariners. Daniel Smith, a council staff member, was also in attendance.
15. Council documentation on the Mariners sponsorship arrangements were also reviewed in terms of ICAC's ten sponsorship principles and the following was noted:
 - a. The documentation provided did not include a sponsorship policy or any procedures or criteria to adhere to in the process of considering proposals for sponsorship. Discussions with staff also showed that no such document or criteria exist or have existed (Principle 8).
 - b. Council put out a media release communicating that it was considering a sponsorship arrangement with the Mariners Football Club before any formal agreement was reached however, there is nothing to indicate in the documentation that the sponsorship was "sought and granted by using broadly based, open processes that were not limited solely to invited sponsors" (Principle 7).
 - c. The signed sponsorship agreement of 1 February 2007 noted above that listed the benefits to be provided for the allocation of sponsorship funds included:
 - i. Provision of a minimum of 50 reserved seat tickets,
 - ii. Capacity to negotiate tickets,
 - iii. Priority access to certain matches,
 - iv. Provision of indoor/outdoor corporate suites that seat twelve people,
 - v. Personal invitations for twelve people to attend the Chairman's Corporate Lounge, and
 - vi. Provision of corporate hospitality tickets at away venues.

2.2 Development application processes

O'Connor Marsden and Associates has undertaken the following tasks to confirm controls adopted by Council to maintain probity in Council's management of the development application approval process:

16. In the process of reviewing the development applications for the land in question, reference was made to Council's development controls. Below is a table indicating the degree of compliance the assessment of the DAs has with the *Wyong Local Environmental Plan 1991*.

General Provisions of the LEP			
Clause	Standard	Proposed/Comment/Assessment	Compliance
Cl. 10	Zone objectives and development control table	DA 1114 – zonings 1 (c) and 4 (b) DA 612 – zonings 4 (b) and 5 (a)	Consistent Consistent
Cl. 15	Development on land containing acid sulphate soils	DA 1114 and DA 612: a preliminary acid sulphate soils assessment report required (condition to be included)	
Cl. 23	Flood prone land	DA 612: deferred commencement conditions are to be imposed to resolve the outstanding flooding and Water Sensitive Urban Design related issues in respect of the proposal.	
Cl. 29	Services	DA 1114 AND DA 612: the proposal can be serviced for water and sewer	Compliant

17. Letters were reviewed that showed legal advice was obtained from Shaw Reynolds Bowen & Gerathy Lawyers on 19 June 2009 and HWL Ebsworth Lawyers on 3 August 2009 with regard to zoning 4 (b) and 1 (c) for DA 1114, and zoning 4 (b) and 5 (a) for DA 612 and permissibility on the site.
18. Discussions were held with the Senior Planner Salli Pendergast, regarding the processes followed in the assessment of the DAs for the development of the Mariners sites. It was noted that:
- The DAs were compliant with the LEP and that there had been no need for a SEPP 1 application.
 - The proposal is considered consistent with the aims of SEPP 71.
19. Sighted the report lodged with the Development Management Panel on 10 November 2009 and noted the following for DA 1114:

General Provisions of the DCP			
Clause	Chapter	Proposed/Comment/Assessment	Compliance
Cl. 6.2.10.6	80 Tuggerah Precinct	Approved for varying the five metre landscape setback requirement (to Ibis Road) to one metre.	Variation approved. Otherwise complies.
Cl. 5.1.3	80 Tuggerah Precinct	Requires a Category 3 Landscape Plan.	Complies

General Provisions of the DCP			
Clause	Chapter	Proposed/Comment/Assessment	Compliance
Part C	80 Tuggerah Precinct	No buildings are proposed.	Complies
	14 Tree Management	The report notes species to be incorporated into the development	Complies
	61 Carparking	The report notes the traffic report prepared by the applicant and states that the parking facilities provided more than satisfy the demand generated by the proposal.	Complies
	67 Engineering Requirements	Stormwater and sediment erosion plans submitted. Conditions for consent applied by Council's Development Engineer.	Complies
	69 Controls for Site Waste Management	Anticipated to be acceptable provided a licensed contractor is engaged to collect, handle and transport the waste to a licensed facility.	
	70 Notification of Development Proposals	Application advertised appropriately, with no submissions received.	Complies

- a. The proposal is consistent with the Wyong/Tuggerah Planning Strategy.
 - b. A condition is to be included in the Landscape Plan submitted to ensure consistency with Council's policy.
20. Reviewed the report to the Development Management Panel as well as the documentation relating to the DA assessment process and noted the following Environmental Planning and Assessment Act (section 79C) considerations:
- a. The requirements of the Roads and Traffic Authority have been addressed as conditions of consent.
 - b. A bushfire hazard assessment report was prepared by the applicant. A condition will be included to address the issue of a bushfire safety authority.
 - c. A condition of consent will require additional onsite measures to be undertaken by the developer to mitigate the potential odour impacts.
 - d. An acoustic report was submitted and considered by the Council's Environmental Health Officer who anticipates that the proposal will have a negligible impact, but to ensure this occurs, specific conditions will be imposed.
 - e. Council's Senior Development Engineer (Hydrology) has reviewed the proposal and has advised that deferred commencement conditions are to be imposed to resolve the outstanding flooding and Water Sensitive Urban Design related issues. Relevant conditions of consent have been included.

- f. Council's Ecologist has reviewed the proposal and the Flora and Fauna Assessment and has concluded that there is not likely to be a significant impact on threatened species, populations or ecological communities.
 - g. A condition will be included to ensure consistent with requirements for safety, security and crime prevention.
 - h. A condition is to be included to requiring the development to comply with the requirements of the *Disability Discrimination Act*.
 - i. Conditions have been included requiring the adoption of sediment and erosion control measures and preparation of a management plan.
 - j. There are no s.79C (1)(c) site constraints that would classify the site as unsuitable for the development proposed.
21. Sighted the report lodged with the Development Management Panel on 10 November 2009 and noted the following for DA 612:

General Provisions of the DUP			
Clause	Chapter	Proposed/Comment/Assessment	Compliance
Part C	80 Tuggerah Precinct	Floor space ratios and site coverage measurements comply.	Complies.
Cl. 5.1.3	80 Tuggerah Precinct	Requires a Category 3 Landscape Plan.	Complies
	14 Tree Management	The report notes and recommends key species be retained. The replacement planting in the proposal is insufficient will need to be addressed under the compensation strategy. Blackbutt <i>Eucalyptus pilularis</i> is noted as not being included in the proposal – additional compensatory planting will therefore be necessary.	
	50 Advertising Signs	A condition will be included for any future signage.	Complies
	61 Carparking	The departure basis noted was 61% at peak time and 44% at weekend tournaments. Additionally, conditions have been included to ensure adequate bicycle parking and related facilities are provided.	Variation approved. Otherwise complies.
	67 Engineering Requirements	Stormwater and sediment erosion plans submitted. Conditions for consent applied by Council's Development Engineer.	Complies
	69 Controls for Site Waste Management	A waste management report prepared by applicant. Anticipated to be acceptable provided a licensed contractor is engaged to collect, handle and transport the waste to a licensed facility.	Complies
	70 Notification of Development	Application advertised appropriately, with three submissions received from two	Complies

General Provisions of the DCP			
Clause	Chapter	Proposed/Comment/Assessment	Compliance
	Proposals	properties. The issues raised have been addressed in the assessment of the application.	
	90 Building Lines	The proposed front setback for the new buildings is appropriate and consistent with the desired future character for the Tuggerah area and includes the provision for landscaping.	Complies
	112 Public Art	This chapter applies as the proposal is commercial in nature and exceeds \$5 million for the estimated cost of the works. A condition is included that requires the provision of artwork with a minimum cost of 1% of the total cost of development.	

- a. The proposal is consistent with the Wyong/Tuggerah Planning Strategy.
 - b. A compliant landscape plan accompanied the application. A condition will be included in the Landscape Plan submitted to ensure consistency with Council's policy.
22. Reviewed the report to the Development Management Panel as well as the documentation relating to the DA assessment process and noted the following Environmental Planning and Assessment Act (section 79C) considerations:
- a. The requirements of the Roads and Traffic Authority have been addressed as conditions of consent.
 - b. The site is identified as bushfire prone and subject to the provisions of *Planning for Bushfire Protection 2006*. A bushfire hazard assessment report was prepared by the applicant. A condition will be included to address the issue of a bushfire safety authority. The application along with the submitted bushfire assessment report were referred to the NSW Rural Fire Service for comment.
 - c. A condition of consent will require additional onsite measures to be undertaken by the developer to mitigate the potential odour impacts.
 - d. An acoustic report was submitted and considered by the Council's Environmental Health Officer who anticipates that the proposal will have a negligible impact, but to ensure this occurs, specific conditions will be imposed.
 - e. Council's Ecologist has reviewed the proposal and the Flora and Fauna Assessment and has advised the following:
 - i. A significant impact is not likely to occur upon the Endangered Ecological Community and therefore a Species Impact Statement is not required.
 - ii. A condition of consent is recommended for fencing saying it must be permanent 1.8 metre man proof fencing around the perimeter with signs on the fence advertising that it is an environmentally sensitive area.
 - iii. A condition requiring planting of the swale extending to the property boundary in order to provide a buffer zone.

- iv. Assessments of significance were conducted for 19 threatened species and concluded that a significant impact is not likely to occur, therefore a Species Impact Statement is not required.
 - v. Compensation for vegetation clearing is required. A deferred commencement condition is to be included for a Vegetation Management Plan to be submitted and approved by Council's Ecologist and the applicant must enter into a lease or license with the Council for the rehabilitation of those lands.
 - vi. A condition is to be included requiring that the fields be constructed appropriately in terms of stormwater management and species.
 - vii. There are alternatives to the clearing of a 10 metre easement relevant to sewer main and vegetation impacts.
 - f. The applicant submitted a statement with the proposal outlining the energy and water efficient measures for the proposal. The proposal includes underground rain water tanks – conditions have been included in relation to this.
 - g. A condition will be included to ensure consistent with requirements for safety, security and crime prevention.
 - h. A condition is to be included to requiring the development to comply with the requirements of the *Disability Discrimination Act*.
 - i. Regarding privacy and overlooking, the one relevant building will be included with the consent to ensure measures are taken to address the issue.
 - j. In terms of social and economic impact, the proposal is deemed to result in future direct and indirect employment opportunities for the Central Coast.
 - k. Conditions have been included to ensure that environment impacts during construction are appropriately managed and mitigated.
 - l. There are no s.79C (1)(c) site constraints that would classify the site as unsuitable for the development proposed.
23. Observed that submissions were received from public authorities, as follows:
- a. The RTA raised significant concern regarding vehicle access to the site via a fifth leg extending from the existing roundabout located on Wyong Road. The applicant amended the access which resulted in the RTA supporting the proposal.
24. Reviewed the documentation maintained of the assessment of the Mariners' development applications and did not identify anything to suggest that the process did not consider the following provisions, in accordance with the Environment Planning and Assessment Act 1979:
- a. the provisions of any environmental planning instrument
 - b. the likely impacts of the development
 - c. the suitability of the site for the development
 - d. any submissions made in accordance with the Act
 - e. the public interest
25. Held discussions with Senior Planner Salli Pendergast and noted that the time taken to complete the assessment of the Mariners' development applications is consistent with the timeframes within Council for developments of this size and complexity.

3 Key observations

3.1 Commencement of sponsorship arrangements

We understand from discussions with Mr Gary McLachlan, Council's Business Development Manager, and Mr Kerry Raffles, General Manager, Business Central Coast, that the sponsorship arrangement with the Mariners FC commenced in 2007. After the commencement of the sponsorship arrangement Council appointed Business Central Coast to manage the sponsorship arrangement on Council's behalf for a fee of \$12,000 per annum.

We undertook an ASIC company search on Central Coast Mariners FC Pty Ltd (ACN 111 321 674) and confirmed that Cr Graham was appointed as a Director of this company on 14 October 2005 and was therefore on the Board at the time the sponsorship arrangements with the Mariners first commenced.

At the time that the sponsorship arrangement was first commenced, Council did not have a sponsorship policy in place. However, it was observed that the Code of Conduct in place at the time (March 2005 version) did have a substantial amount of information and guidance to staff on sponsorships (refer to Appendix B for the relevant extracts from the 2005 Code of Conduct. The inclusion of this in the Code of Conduct, from Council's perspective, was sufficient and negated the need to have a separate policy on sponsorships arrangements. While this is acknowledged and it is agreed that a separate policy would create a level of duplication, the Code of Conduct adopted by Council in October 2008 did not include the same reference to sponsorships arrangements. Further, when this detail was removed from the 2008 Code of Conduct, Council did not take action to develop a separate Sponsorships Policy and, to date, a new policy has not been implemented by Council.

Further, there does not appear to be in place any procedures for the identification of opportunities for sponsorship arrangements or to ensure that the decisions Council's made in relation to sponsorship is assessed in a clear, open and transparent manner. The ICAC's publication on sponsorship in the public sector states that proposals should be assessed against predetermined criteria which have been published in advance or which are circulated to organisations that submit an expression of interest (Principle 8).

Given there is no formalised policy or procedure in place for the management of sponsorship arrangements, including criteria for determining the appropriateness of a sponsorship arrangement, it is strongly suggested that Council take action to ensure that a sponsorship policy is developed which includes criteria for assessing sponsorship proposals.

Further, we note from discussions with Mr Ruffles that there was no sponsorship agreement in place at the commencement of the sponsorship arrangements which was signed by all parties and outlined the specific details of the arrangement. For example, when the sponsorship was first endorsed by Council (via Council resolution) there was no signed agreement which outlined the amount of the financial sponsorship to the Mariners from Council and the expectations Council had in return for the financial sponsorship.

Principle 9 of the ICAC's guidance on sponsorships states that a sponsorship agreement is a contract and should be described in a written agreement. This concept is consistent with section 12.6.8 (ix) of the 2005 Code of Conduct which was in place at the time the sponsorship arrangements commenced. Further, the ICAC expresses a view that sponsorship agreements are legally binding contracts. At the time the sponsorship arrangement was first entered into there was no written agreement in place. While we sighted a sponsorship agreement relating to the sponsorship for the current financial year (which was put in place following a recommendation from Business Central Coast) it does not appear that the signed agreement provides Council with an option to cancel the agreement if the terms of the agreement are not met.

3.1.1 Recommendations

R1: That Council implement the draft Sponsorship Policy that has recently been prepared as soon as possible to ensure that there is a documented and consistent approach to determining sponsorship arrangements including pre-determined criteria for assessing sponsorship proposals.

R2: That Council seek legal advice regarding the sponsorship agreement entered into with the Mariners Football Club to ensure that the specific terms of the sponsorship agreement are clearly articulated and there are sufficient provisions in the agreement to allow Council the ability to terminate the agreement if the terms of the agreement are not met. Any amendments to be made to the sponsorship agreement should be consistent with the ICAC's sponsorship principles, particularly Principle 6 (refer below).

3.2 Compliance with the ICAC's Sponsorship Principles

The ICAC's publication titled *Sponsorship in the Public Sector* (May 2006) refers to ten sponsorship principles for NSW public sector agencies to manage corruption risks associated with sponsorship in the public sector. At a high level, these principles were consistent with the guidance included in the 2005 Code of Conduct in place at the time.

As part of the review, OCM measured Council's compliance with these principles based on the information available to us during the review, including discussions with key Council staff and review of relevant documentation. We have also identified, where applicable, the relevant sections of the 2005 Code of Conduct. The ICAC sponsorship principles are discussed in detail in Appendix A and we have outlined below the sponsorship principles where it appears Council's processes relating to the sponsorship arrangement with the Mariners are not consistent with the ICAC guidance material.

1. **Principle 3 (section 12.6.8 (iii) of the 2005 Code of Conduct):** this principle relates to ensuring there is delineation between a sponsorship arrangement and the agency's regulatory responsibilities. According to this principle, the people or division involved in the sponsorship arrangement should have no involvement in the regulation of the party or in general. The strict application of this principle would suggest that any individual involved in the sponsorship arrangements should not have any involvement in the development application lodgement and assessment process.

We note from the review that the Business Development Manager, Mr McLachlan, plays a significant role within Council in relation to the sponsorship arrangements with the Mariners as well as with Business Central Coast who manage this arrangement on Council's behalf. We note that Mr McLachlan has had a level of involvement with the lodgement and assessment of the Mariners' development applications. This involvement has included attendance at pre-lodgement meetings with the Mariners (in the presence of a Duty Planner) as well as internal discussions regarding whether one of the development applications should be treated as a Part 5 application or an application for development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*.

However, we understand from discussions with relevant Council staff, that Mr McLachlan's involvement in the development applications process ceased when the applications were lodged with Council. Mr McLachlan's involvement in the process is not inconsistent with his role at Council as the Business Development Manager as it was recognised that this development would have a significant impact on the Wyong Shire.

It is suggested that Council adopt a defined and documented separation of roles between the individuals and divisions involved in the management of the sponsorship arrangement and those involved in planning and assessment of the Mariners development applications. A defined and documented separation of these roles will assist Council in adhering to this ICAC sponsorship

principle and promote an open and transparent process for the assessment of the development applications.

2. **Principle 6 (section 12.6.8 (vi) of the 2005 Code of Conduct):** this principle states that it is inappropriate for any employee of a public sector agency to receive a personal benefit from a sponsorship. In relation to this principle, it is recognised that while there are provisions in the sponsorship agreement for Council to have access to tickets to games and to the Corporate Box at the Mariners' home games, we have been advised that Council's General Manager has refused such offers to maintain probity. This approach and position by the General Manager is consistent with the ICAC's principle and general advice regarding the management of corruption risks associated with sponsorship.

Despite the above, the existence of these provisions in the sponsorship agreement which could provide a personal benefit to some Council staff as a result of the sponsorship arrangement, may be perceived as being inconsistent with this sponsorship principle.

3. **Principle 7:** this principles states that sponsorships should be sought and granted by using broadly based, open processes that are not limited solely to invited sponsors. Further, the ICAC maintains that open tendering is the most appropriate method in most cases for the granting of sponsorships. The circumstances leading to the sponsorship arrangement with the Mariners indicate that Council has not followed an open process for granting the sponsorship arrangement. We understand that the arrangement came about following a presentation by the Mariners to the Business Central Coast Board of Directors which, at the time, included Councillors from both Gosford and Wyong Shire Councils.

We did not identify anything to suggest that Council undertook a competitive process for the sponsorship arrangements. As per the 2005 Code of Conduct, Council notes that "in most circumstances, the public interest is best served by making sponsorship opportunities widely known. To this end, sponsorships should be sought by calling expressions of interest or using other broadly based mechanisms not limited solely to invited sponsors". Further, the 2005 Code of Conduct also states that where a decision is taken not to offer sponsorship opportunities widely, the reasons for doing so should be clearly documented. We did not identify anything to suggest that this was the case.

There can be a perception of an advantaged being provided to the Mariners in relation to access to Council funds for sponsorship arrangements when an open and competitive process is not undertaken. This perception is likely to be heightened given the current Mayor of Council, Cr Graham, is also a Director on the Mariners' Board. While the above is noted, we did not identify anything during the review to suggest that there has been any improper conduct in the commencement of the sponsorship arrangement. However, Council needs to ensure that it demonstrates an open and transparent process in determining sponsorship arrangements and to reduce any perception of favouritism.

4. **Principle 8:** As noted in section 4.1 above, Council does not have a formalised Sponsorship Policy in place nor does it have any defined process and criteria for the assessment of proposals for sponsorship. However, it is recognised that a draft Sponsorship Policy is being prepared for consideration and adopted by Council.
5. **Principle 9:** As noted in section 4.1 above, Council did not have a formal sponsorship agreement in place for the first two years of the sponsorship arrangement with the Mariners. Further, the current sponsorship agreement does not appear to have a provision for Council to terminate the agreement if the specified terms of the agreement are not met by the Mariners.
6. **Principle 10:** this principle states that all sponsorship arrangements should be approved by the CEO or another designated senior officer of the agency and described in the agency's annual report in a form commensurate with the significance of the sponsorship. The sponsorship arrangement was approved in line with this principle in that in all instances it was approved by Council resolution. However, it does not appear that the details of the sponsorship arrangement are documented in Council's Annual Report.

3.2.1 Recommendations

Refer to **R1** and **R2**

R3: That Council adopt a clear separation of roles between the individuals and divisions involved in the management of the sponsorship arrangement and those involved in planning and assessment of the Mariners development applications. The separation of these roles will assist Council in adhering to ICAC sponsorship principle 3 and promote an open and transparent process for the development application assessment.

R4: That Council ensure that its Annual Report contains information in relation to all sponsorship arrangements entered into during the financial year, including the amount of the sponsorship and the benefits provided to Council and the other parties to the agreement in response for the financial sponsorship.

3.3 Identification and management of conflicts of interest

As noted above, the current Mayor of Council, Cr Graham, is also a Director on the Mariners' Board of Directors. Cr Graham was appointed as a Director of the Central Coast Mariners FC Pty Ltd on 14 October 2005 and therefore was a Director at the time the sponsorship arrangement commenced.

In meetings up to and including 11 February 2009 when the issue of the sponsorship arrangement was discussed at Council meetings, Cr Graham declared that he was a member of the Mariners' Board and Directors and therefore has a "significant non-pecuniary interest". However, at the Council meeting on 26 August 2009, Cr Graham declared that he has a pecuniary interest in relation to this position on the Mariners' Board of Directors. We did not identify anything to suggest why there has been a change in the nature of the declaration by Cr Graham relating to the sponsorship arrangement and his position on the Mariners' Board. It is suggested that Council ensure that there is written confirmation as to the reasons why Cr Graham's interest changed from non-pecuniary to pecuniary and that the management strategies to be adopted to manage the interest are clearly documented.

Councillors and designated persons within Council are required to submit a written return of interests on an annual basis in accordance with Section 449 of the *Local Government Act 1993*. Section 448 of the Act identifies the interests that are not required to be disclosed, including an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation. Cr Graham, as a Director on the Mariners' Board of Directors, is an office holder for the purposes of section 448 of the Act. Cr Graham's interest would be pecuniary in nature even if his role on the Mariners Board of Directors is not remunerated given that he is an office holder on the Mariners' Board. In light of this, it would appear that Cr Graham's declaration of his involvement with the Mariners' as a non-pecuniary interest in Council meetings leading up to and including 11 February 2009 would be inconsistent with section 449 of the Act.

We note that Cr Graham has consistently declared the nature of his involvement with the Mariners at Council meetings and has removed himself from Council meetings with the sponsorship arrangement and other business associated with the Mariners' has been discussed. This strategy is consistent with the requirement under the *Local Government Act 1993* regarding the management of pecuniary interests.

However, we identified on file a record of a meeting between various Council officers and representatives from the Mariners whereby the proposed development application for the sports complex was discussed. We understand that this meeting was held prior to the lodgement of the development applications. From the handwritten record of the meeting it appears that Cr Graham and Cr Brenton Pavier were present during this meeting with Mariners' representatives. There are two issues in relation to this meeting:

1. The attendance at this meeting by Cr Graham is inconsistent with the approach adopted for all Council meetings where he has removed himself from any discussions on Council's relationship

with the Mariners'. Cr Graham attending this meeting can have the effect of blurring the boundary between his role as a Wyong Shire Councillor and Mayor of the Council and his role as a Director on the Mariners' Board of Directors. As such, this can create a perception that the Mariners' are receiving favourable treatment during the development application process as one of their Directors is Council's Mayor.

2. The attendance at this meeting by Cr Graham may be inconsistent with the Code of Conduct as it relates to inappropriate interactions between Councillors and Council staff in terms of development applications lodged by Councillors.

It is noted that the 2005 Code of Conduct, which was effective at the time of the above meeting, includes at section 8.8 details of what conduct would be considered to be inappropriate. In accordance with this section of the applicable Code, the meeting between Councillors (including the Mayor in his capacity as a representative of the Mariners) to discuss the Mariners development may be perceived as being an inappropriate interaction, as noted above. Specifically, the Code of Conduct discusses circumstances where a Councillor is the applicant to a development application.

It is acknowledged that the applicant for the Mariners development applications is the Turnbull Group Developments Pty Ltd on behalf of the Mariners FC Unit Trust. It is acknowledged that Cr Graham is not a Director of the entity which is listed as the applicant for these development applications. Further, an ASIC search of Turnbull Group Developments Pty Ltd did not identify any current Councillors who are office holders within this company. However, Cr Graham's involvement as a Director of the Central Coast Mariners FC Pty Ltd, who will benefit from the approval of the development applications, suggests that the same management strategy should be adopted for managing any risks associated with this conflict of interest.

3.3.1 Recommendations

R5: That Council ensures that it is appropriately documented the reasons why Cr Graham's interest changed from non-pecuniary to pecuniary and that the management strategies to be adopted to manage the interest are clearly documented.

R6: That Council seek input from Cr Graham supported, where appropriate, by legal advice in relation to the declaration by him in Council meetings leading up to and including 11 February 2009 of a *non-pecuniary interest* in light of his position as an office holder on the Mariners' Board of Directors.

3.4 Management of Council's dual roles

As noted in the Work Performed section above (Section 2), we did not identify anything in the review of this process to suggest that the assessment of the Mariners' development applications were not consistent with the assessment requirements as stipulated in the Environmental Planning and Assessment Act 1979, particularly section 79C.

However, it should be noted that Council has dual roles in relation to aspects of these developments applications: firstly, as a landowner for part of the sites the subject of the development applications and the consent authority for the development.

The ICAC's publication *Corruption Risks in the NSW development approval processes: Position Paper (September 2007)* discusses the risks that can arise when a council has conflicting roles as a consent authority and land owner or interested party in a development. The ICAC states that consent authorities may have an interest in the outcome of matters such as:

- rezoning their own land
- sale of their land to developers for development purposes
- development of their land for a community facility
- formation of a partnership with the private sector to develop the consent authority's land.

The ICAC's Position Paper discusses various risk mitigation strategies that have been identified and can be utilised in order to minimise risks associated with the concept of conflicting roles. It is important to note that the ICAC recognises in the Position Paper the need to ensure that the strategies adopted are commensurate with the size and complexity of the project. The ICAC Position Paper identifies the strategies to be adopted for three different types of development ranging from Category 1 developments which are small score developments, to Category 3 which are certain entrepreneurial developments with a value over a specified amount. It appears that the Mariners development, given its size and significance, would fall into Category 3. The risk mitigation strategies identified in the ICAC Position Paper for Council's dual roles on Category 3 developments are as follows:

- that appropriate external consultants or officers from another council are used to undertake the development assessment
- that Council give consideration to referral of the matter to an Independent Hearing and Assessment Panel
- determination on the development was made by full Council
- segregation of duties exist within Council
- independent financial advice is sought, where required
- key decisions are not made unilaterally and consideration was given to the development of a project steering committee
- consideration is given to whether notification of the development application should be expanded

We understand from discussions with Ms Danielle Dickson, Manager Development Assessment, that Council did give consideration to the need to manage its dual roles, however, based on the limited involvement of Council in the initial stages of the pre-lodgement discussions and development application assessment it was deemed that the engagement of an independent was not warranted relative to the level of risk. However, as the involvement of Council, particularly with the use of Council land for the development application relating to the playing fields, increased as time progressed it does not appear that Council formally reviewed its position on whether the dual roles required the involvement of an independent third party to assess the development applications.

It is suggested that, given the significance of the development and the involvement of Council's Mayor on the DA applicants' Board of Directors, there may have been an increased need for Council to seek the assistance of an independent during the development application assessment process.

Notwithstanding the above, we noted from our discussions with Ms Dickson and Ms Pendergast that there was a level of segregation between the Property Division within Council, who would have provided the approval to the Mariners to lodge the development application utilising Council land, and the Development Assessment Group. This segregation of roles can assist Council in demonstrating that an open and transparent process has been followed for the assessment of the development applications where Council has dual roles.

3.4.1 Recommendations

R7: That, in future, Council ensures that it considers the need to seek independent assistance with the assessment of a development application where there are elements of Council having dual roles. The consideration of the risks associated with dual roles should be properly documented and any decisions made on the strategies to be adopted to manage the risks should be approved by the relevant authority, such as the General Manager or the relevant Director.

Appendix A: ICAC's Sponsorship Principles

Sponsorship in the Public Sector – ICAC (May 2006)

The ICAC publication regarding sponsorship in the public sector defines sponsorship as a commercial arrangement in which a sponsor provides a contribution in money or in kind to support an activity in return for certain specified benefits. Sponsorship can be provided:

- by the corporate sector or private individuals, in support of a public sector activity, or
- by the public sector in support of related and worthwhile private or public sector activities

The ICAC states that sponsorship is not philanthropic. A sponsor expects to receive a reciprocal benefit beyond a modest acknowledgement. The ICAC publication discusses the ten sponsorship principles:

Principle 1

A sponsorship agreement should not impose or imply conditions that would limit, or would appear to limit, a public sector agency's ability to carry out its functions fully and impartially.

Principle 2

There should be no actual conflict between the objectives and/or mission of the sponsored agency and those of the sponsor. The ICAC states that an agency should ensure that the values and objectives of the potential sponsor or sponsorship recipient or its parent company do not conflict with those of the agency. There should be provision in the sponsorship agreement for an agency to terminate the agreement during the term of the agreement if these values or objectives change in a way that could pose a conflict of interest for the agency.

Principle 3

In general, a public sector agency with regulatory or inspection responsibilities should not seek, or accept sponsorship from people or organisations which are, or may be, subject to regulation or inspection by the agency during the life of the sponsorship.

Agencies that enter into such arrangements should take appropriate action to manage the risks, for example:

- The agency should record the circumstances resulting in this decision and its decision-making process.
- The agency should have a policy and procedures in place to ensure it carries out its functions in regard to such parties in a fair, accountable, open and impartial manner. At a minimum, the agency should ensure that the people or division involved in the sponsorship arrangement have no involvement in the regulation or inspection of the party or in general.

Principle 4

Sponsorship of a public sector agency or activity should not involve explicit endorsement of the sponsor or the sponsor's products.

Principle 5

Where sponsorship involves the sponsor providing a product to the agency, the agency should evaluate that product for its fitness for purpose against objective criteria that are relevant to the agency's needs.

Principle 6

It is inappropriate for any employee of a public sector agency to receive a personal benefit from a sponsorship.

Principle 7

In most circumstances, the public interest is best served by making sponsorship opportunities widely known. To this end sponsorships should be sought and granted by using broadly based, open processes that are not limited solely to invited sponsors.

Principle 8

Public sector agencies should assess sponsorship proposals against predetermined criteria which have been published in advance or which are circulated to organisations that submit an expression of interest.

Principle 9

A sponsorship arrangement is a contract and should be described in a written agreement.

Principle 10

All sponsorship arrangements should be approved by the CEO or another designated senior officer of the agency and described in the agency's annual report in a form commensurate with the significance of the sponsorship.

Appendix B: Extract from Council Code of Conduct (March 2005)

Sponsorships

"Sponsorship" means a contribution in money or kind, generally by the corporate sector or private individuals, in support of a council sector activity. It does not include the selling of advertising space, joint ventures, consultancies and gifts or donations where the reciprocal benefit provided by the council does not extend beyond some modest acknowledgment.

Sponsorships should not limit council's ability to carry out its range of functions fully and impartially or influence a council decision. Council officials must never ask for or receive benefits from a sponsorship arrangement.

The following guidelines should be followed in considering sponsorship of a Council activity:

- i A sponsorship arrangement should not impose or imply conditions that would limit, or appear to limit, Council's or a department of Council's ability to carry out its functions fully and impartially.

This principle needs to be clearly understood by sponsors. The sponsorship agreement should state positively that the agency's functions will continue to be carried out fully and impartially, notwithstanding the existence of a sponsorship arrangement.

Clear guidelines should describe the process and possible consequences of any sponsorship related impacts on Council's responsibilities (for example, a statement to the effect that any attempted influence of the sponsored Departmental functions will result in an automatic review and/or termination of the sponsorship arrangement).

- ii There should be no real or apparent conflict between the objectives and mission of the sponsored department and those of the sponsor.

Sponsorship agreements should be monitored. Provision should be made for contingencies such as a change in the sponsor's corporate mission or objective.

Be aware of the possibility that the objectives and mission of a sponsor's parent company or subsidiaries might be in conflict with those of the Council.

- iii A Council Department with regulatory or inspectorial responsibilities should neither seek nor accept sponsorship from persons or bodies which are, or are likely to be, subject to regulation or inspection by the agency during the life of the sponsorship.

Accepting sponsorship in such circumstances is a delicate business and one where the manager must exercise some judgement as to who should or should not be an exception to the general rule.

For those exceptional cases where a decision is taken to accept sponsorship in such an environment, all parties should be in no doubt that the sponsorship relationship has absolutely no bearing on the Department's exercise of regulatory or inspectorial functions. This should be made clear in all negotiations and documentation, not only for the benefit of those who are parties to the agreement but also to ensure public confidence in the integrity of the agreement.

Always ensure that a method for dealing with any exercise of the regulatory or inspectorial function is in place and clearly spelt out in the specific sponsorship agreement.

- iv Sponsorship of an activity should not involve explicit endorsement of the sponsor or the sponsor's products.

Care also needs to be taken to avoid strong implicit endorsement of a sponsor's products. Sponsorship agreements should set out the range of uses to which the sponsor can put the relationship (for example, in advertising copy) and perhaps give Council an opportunity to review specific uses prior to release.

- v Where sponsorship takes the form of a provision of a sponsor's product, the product should still be evaluated for its fitness for purpose against objective operational criteria which are relevant to the Council's needs.

Care should be taken not to accept a sponsor's products simply because they are offered free of charge. There could be an implicit endorsement of a sub-standard product.

- vi It is inappropriate for any employee of a Council to receive a personal benefit from a sponsorship.

Where a benefit is provided by a sponsor on a corporate basis (for example, meeting the cost of hospitality at a conference), it is important to ensure there is no perception of a personal benefit being given to a Councillor or staff member as an individual.

Depending on conditions of engagement, contractors and consultants could be regarded as employees of Council and should be considered when assessing the status of personal benefits in a sponsorship agreement.

- vii In most circumstances, the public interest is best served by making sponsorship opportunities widely known. To this end, sponsorships should be sought by calling expressions of interest or using other broadly based mechanisms not limited solely to invited sponsors.

When and in what form a broadly-based process should be used depends on the nature of the market. If there is vigorous interest in sponsorship, the process should be competitive. Alternatively, if interest is restricted to potential sponsors with highly specialised characteristics, then more direct methods would be unlikely to offend. In any case the general willingness to accept sponsorship should be notified as widely as possible. The response could indicate how competitive the race for a specific sponsorship might be.

Where a decision is taken not to offer sponsorship opportunities widely, the reasons for doing so should be clearly documented.

The reasoning behind this principle can be found in the ICAC's Report on Investigation into the Silverwater Filling Operation (1990, pp 26-27). The "Silverwater Principles" as they have become known, recommended that:

- 1 Public property must be utilised so as to maximise public benefit.
- 2 All should have equal opportunities relative to public property.
- 3 Accordingly, tenders should be called whenever large benefits will pass to or costs be incurred by Council.
- 4 If that general rule is departed from, the reasons for so doing should be recorded.

The New South Wales Government Procurement and Disposal Guidelines (1995) also recommend (at point 2.8) that "competition be considered even where no apparent public expense is to be incurred; for example where a firm offers payment or services in exchange for an intangible benefit such as publicity as a sponsor...".

- viii Council should assess sponsorship proposals against predetermined criteria which have been published in advance or which are circulated to organisations which submit an expression of interest.

The assessment should be done by persons who have relevant qualifications and can act, and be seen to act, impartially.

Proposals must be assessed consistently, using predetermined criteria available to all potential sponsors. The criteria should be established and documented prior to calling for expressions of interest. For the process to be fair, the criteria should not be changed midstream unless all potential sponsors are given an equal opportunity to revise their proposals.

The assessment process and reasons for decisions should be fully documented.

A more detailed discussion on managing the tendering process can be found in ICAC publication *Contracting for Services: The Probity Perspective* (1995).

- ix A sponsorship agreement is a contract and should be described in a written agreement.

The written agreement (an exchange of letters could suffice) should clearly set out:

- the benefits, including economic benefits, available to Council and to the sponsor;
- any personal benefits available to the sponsor's employees and their relatives;
- the form or forms of sponsorship acknowledgment which will be available;
- the scope of uses which the sponsor can make of the sponsorship arrangement;
- the term of the sponsorship and any conditions regarding renewal;
- consequences of changes which may occur over time (for example, a shift in the relationship, new policies, new corporate missions or objectives);
- financial accountability requirements;
- provisions for termination or suspension of the agreement;
- any special conditions which apply.

Staff should be mindful that sponsorship agreements constitute contracts and should be administered by people who are appropriately trained. This training should include basic contract administration and commercial dealings with the private sector.

- x All sponsorship arrangements should be approved by the General Manager or Departmental Director designated and will be detailed in Council's annual report, in a form commensurate with the significance of the sponsorship.

Where boards or volunteer committees are convened by Council, it is important to provide such people with the support necessary to effectively administer sponsorship arrangements.

- xi Council must ensure that sufficient resources are available to enable the promised sponsor benefits to be delivered. Council should provide sufficient information for the sponsor to evaluate the outcomes of the sponsorship.

The benefits which are provided should be commensurate with the level of sponsorship and consistent with other sponsorship arrangements.

Appendix C: Probity Principles

Accountability and Transparency

Accountability and Transparency are related concepts. Accountability involves agencies being able to justify the use of public resources to an appropriate authority by allocating and taking responsibility for both decisions and performance. This includes aligning the decision making process with the appropriate delegated authority and keeping records of both the delegations and decisions. Transparency refers to the preparedness to open a project and its processes to scrutiny and possible criticism, including the provision of timely and appropriate information to each stakeholder, including the proponents, and leaving an auditable trail of adequate records of the reasons for all decisions.

Conflict of Interest Management

Conflicts of interest arise when persons are influenced, or appear to be influenced by personal interest when doing their job. It is therefore likely to result in a lesser standard of service delivery and can create the perception of such.

Confidentiality Management

Although accountability and transparency are fundamental to the work of public sector organisations and public officials, there is some information that needs to be kept confidential, at least for a specified period of time, in order to protect the integrity of the process and give proponents the confidence to do business with government. Procedures must be implemented to ensure that no unauthorised release of confidential information occurs. The processes adopted for receiving and managing information are to ensure the security and confidentiality of intellectual property, proprietary information or otherwise sensitive information.

Obtaining Value for Money

Obtaining value for money is enhanced when there is open competition and the market is tested regularly. Impartial, open and competitive processes are an important stepping stone in achieving value for money.

Appendix D: Statement of Responsibility

Management's Responsibility for the Evaluation Process

The management of Wyong Shire Council are responsible for the design and implementation of the evaluation process controls in accordance with Government policies. This responsibility includes establishing and maintaining processes relevant to the evaluation process to ensure that the process meets appropriate probity policies, laws and regulations; and leads to selecting the most appropriate proponent or proponents under the prevailing circumstances.

Assurance Practitioner's Responsibility

Our responsibility is to express a conclusion on the Evaluation Process based on our review. We conducted our review in accordance with Australian Standard on Assurance Engagements ASAE 3000, *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*, in order to state whether, on the basis of the procedures described and witnessed where appropriate, we have become aware of any matter that makes us believe that the evaluation process is not in accordance with the principles described above.

A review consists primarily of making enquiries, primarily of persons responsible for undertaking the evaluation process and its underlying documentation, applying analytical and other review procedures, and examination of evidence for a small number of transactions or events. A review is substantially less in scope than a reasonable assurance *audit* conducted in accordance with ASAE 3000. Accordingly, we do not express an audit opinion. Had we performed a reasonable assurance *audit* as defined by ASAE 3000 or an *audit* as defined by Australian Standards on Auditing, additional information may have come to our attention, which would have been reported to Wyong Shire Council.

While conducting our review and/or in our report we may provide advice and/or recommendations in relation to the mitigation of risk of challenge to the processes undertaken by Wyong Shire Council. In these cases, our responsibility is limited to providing such advice and/or recommendations, based on our experience and knowledge of the subject matter of the project. For the avoidance of doubt, the procedures performed in providing advice and/or recommendations do not constitute an assurance engagement in accordance with Australian Standards for Assurance Engagements, nor do they represent any form of audit under Australian Standards. We therefore do not express any form of assurance in relation to the advice and/or recommendations, and none should be inferred from any such commentary in this report

Inherent Limitations

Our Work is subject to the following limitations:

Owing to the inherent limitations of any internal control structure, it is possible that errors or irregularities may occur and not be detected. Our procedures were not designed to detect all weaknesses in control procedures as they were not performed continuously throughout the period and the tests performed are on a sample basis.

Any projection of the evaluation of the control procedures to future periods is subject to the risk that the systems may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate.

The matters raised in this report are only those which came to our attention during the course of performing our procedures and are not necessarily a comprehensive statement of all the weaknesses that exist or improvements that might be made. We cannot, in practice, examine every activity and

procedure, nor can we be a substitute for management's responsibility to maintain adequate controls over all levels of operations and their responsibility to prevent and detect irregularities, including fraud. Accordingly, management should not rely on our report to identify all weaknesses that may exist in the evaluation process, or potential instances of non-compliance that may exist.

Advice and/or recommendations for improvement should be assessed by management for their full commercial impact before they are implemented.

Limitations on use

This report is made solely to Wyong Shire Council in accordance with our proposal dated 13 November 2009, for the purpose of providing comfort to senior management on the appropriateness and robustness of the evaluation process and should not be quoted in whole or in part without our prior written consent. We disclaim any assumption of responsibility for any reliance on this report to any person other than the management of Wyong Shire Council, or for any purpose other than that for which it was prepared.

We disclaim all liability to any other party for all costs, loss, damages, and liability that the other party might suffer or incur arising from or relating to or in any way connected with the contents of our report, the provision of our report to the other party, or the reliance on our report by the other party.

Independence, Competence, and Experience

All professional personnel involved in this engagement have met the independence requirements of the Australian professional accounting bodies. Our team has been drawn from our Probity Services Practice and has the required competencies and experience for this engagement.

3.2 Lease of Council Land at Church Road, Tuggerah by Mariners FC Unit Trust

TRIM REFERENCE: F2009/00908 - D01995726

AUTHOR: PF

SUMMARY

Approval is sought to grant a lease to Mariners FC Unit Trust of Council land at Lots 61 - 64, 71 - 73 and 80 - 89 DP 4008 and part of the unformed public roads Mooramba Avenue and Delamere Avenue, Tuggerah.

RECOMMENDATION

- 1. That Council grant a lease to Mariners FC Unit Trust of Lots 61 - 64, 71 - 73 and 80 - 89 DP 4008 and part of the unformed public roads Mooramba Avenue and Delamere Avenue, Tuggerah for a period of 10 years with an option to renew for a further 10 years at market rent to be determined by a qualified valuer.**
- 2. That Council approve the use of Council land Lot 3A DP 367658 and Lot 3 DP650650 Titania Avenue for the planting of trees required as an offset to the proposed loss of vegetation on Council land to be leased to the Mariner's FC Unit Trust.**
- 3. That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents as required between Wyong Shire Council and Mariners FC Unit Trust.**
- 4. That Council authorise the Mayor and the General Manager to execute all documents.**
- 5. That Council restrict the use of the land to that of playing fields and associated facilities only, as being a purpose compatible with the Zoning 5(a) Sewage Buffer.**
- 6. That Council classify Lots 61 - 64, 71 - 73 and 80 - 89 DP 4008 as operational land.**

BACKGROUND

Turnbull Group Developments Pty Ltd has approached Council on behalf of Mariners FC Unit Trust requesting a lease of Council land Lots 61 - 64, 71 - 73 and 80 - 89 DP 4008 part of the unformed public roads Mooramba Avenue and Delamere Avenue, Tuggerah for use as playing fields in association with a proposal for the redevelopment of the adjoining Club Tuggerah site.

Staff investigated the proposal and there is no objection to leasing the subject Council land for use as playing fields.

Lots 61 - 64, 71 - 73, 80, - 89 DP 4008 Mooramba Avenue, Tuggerah has a total area of approximately 65,118 m² and is zoned 5(a) Special Uses Sewer Buffer.

3.2 Lease of Council Land at Church Road, Tuggerah by Mariners FC Unit Trust (cont'd)

The public road proposed to be included in the area to be leased is part of the unformed road known as Mooramba Avenue having an area of approximately 2,300 m² and bisects the freehold land proposed to be leased.

The subject land is owned by Council and used for the purposes of the Water Management Act 2000 on the basis the land was purchased with sewerage funds to ensure compliance with LEP 5A Special Uses, Sewage Buffer.

The land falls within the sewage buffer zone for Wyong South Sewage Treatment Plant however it has not yet been classified for the purposes of the Local Government Act 1993 Part 2.

PROPOSAL

It is proposed for WSC to lease the land to the Mariners Trust for exclusive use as playing fields.

The lease to Mariners FC Unit Trust shall include Lots 61 - 64 and 71 - 73 and 80 - 89 DP 4008 and part of the unformed public roads Mooramba Avenue and Delamere Avenue, Tuggerah.

The land in question currently serves a formal purpose under Council's LEP 5A as a sewage buffer zone. Conversion of the property to playing fields is a complementary use and cannot detract from that function. Subject to the comments below, there is no reason that prevents the dual use of the land by Council's choice.

Lease Conditions

The lease will contain WSC's standard conditions covering care, behaviour, breach, dispute, termination, rights and obligations.

The terms of the proposed lease will need to further contain assurance for WSC that ensure the use of the land remains consistent with the proposed dual purpose under the terms of the local Government Act 1993, Chapter 6 Part 2 s25 –s.47F

The lessee would also be required to undertake regular, on-going air modelling to quantify odour emissions affecting the use of the land and operate their activities so the effect of odour is managed to WSC's requirements. This essential condition of the lease will be imposed to ensure continued public safety and to ensure the original purpose of Council owning the land (as a sewage buffer zone) retains integrity.

The lease also will be required to ensure that the playing fields are constructed and maintained, by the lessee, to Council's standards for public playing fields.

Lease Rental

Lease rentals are determined by Council after considering the nature of the organisation and the proposed use of the land. WSC has an obligation to all ratepayers to ensure that lease rental fees are collected to the best advantage to the community. Advantage may accrue through not-for-profit organisations providing the community with recreational activities such as sport. The alternate extreme is a full market rental approach applied to commercial entities.

This application is made by a commercial organisation and a market rental established by way of independent formal valuation is appropriate.

Annual rent review conditions will be a condition of the lease.

3.2 Lease of Council Land at Church Road, Tuggerah by Mariners FC Unit Trust (cont'd)

Lease Term

WSC's normal practice for leasing of land for recreational purposes has been to establish a lease term of five years with an option to renew for a further five years (a 5+5 lease). However given this proposal forms part of a re-development of the Club Tuggerah site involving significant capital investment, the applicant is seeking greater certainty of tenure by way of a longer lease term.

The applicant proposed a Ninety-Nine (99) year term which for a commercial arrangement, is significantly outside WSC risk margin. i.e. The 99 year horizon would commit Council to a commercial venture risk that could prevent or significantly impede Council's use and upkeep of the land in the event the venture being in fail mode.

Notwithstanding the risk element, the investment of capital by private interests (i.e. the Mariners) in the construction of playing fields on Council land, is a long-term investment for the community. It is in Council's best interest on behalf of the community to support this investment by providing an extended term of tenure.

A lease term of ten years with a further ten year option (10+10) is proposed to provide a level of certainty for the applicant within an acceptable risk window for Council.

Land Classification

Land owned by Council for the purposes of the Local Government Act 1993 is required to be classified (see below). Given its current use and proposed dual use, it is appropriate to classify the properties as Operational Lands.

Replanting

In addition to the lease arrangements for playing fields, a concurrent Development Application for recreation car parking facilities proposed by the Mariners, is also being considered in this business paper.

The development will require the Applicant to provide substantive replanting of native vegetation to replace the vegetation removed because of the proposed development. It is proposed, subject to unfettered Council approval of the DA, that WSC land at Titania Ave may be used to accommodate the replanting programme.

FINANCIAL IMPLICATIONS

Council will require that all costs associated with the preparation of and completion of the lease agreement will be met by Mariners FC Unit Trust.

GOVERNANCE

The Local Government Act 1993 Chapter 6, Part 2 s.25 & 26 requires that all Council owned land must be classified as either operational or community land. The land is currently unclassified.

Other relevant legislation:- Water Management Act 2000 and the Conveyancing Act 1919 in respect of leasing.

There are no provisions in the Water Management act 2000 that govern the status of land purchased with restricted funds and there are no restrictions imposed by Council's LEP other than the sewerage buffer zone must be maintained.

The land is owned in fee simple by Wyong Shire Council, the Body Politic.

3.2 Lease of Council Land at Church Road, Tuggerah by Mariners FC Unit Trust (cont'd)

CONCLUSION

The land is owned by Council and used currently as a Sewage Buffer Zone.

The application from the Mariners Club proposes the land be put to dual use. The applicable legislation does not prohibit dual use provided that the primary use as a buffer zone is not compromised by the secondary use as playing fields under the management of the Mariners FC.

The intended development of the surrounding area by the Mariners F.C.Trust will be of significant benefit to Wyong Shire and providing Council meets the land use and regulatory requirements, it invites Council's endorsement.

LOCATION PLAN



ATTACHMENTS

Nil.

3.3 Odour Study at Wyong South Sewerage Treatment Plant

TRIM REFERENCE: F2009/02375 - D02085540

AUTHOR: KJD

SUMMARY

This report deals with the relationship between the proposed Mariners' development and Councils Wyong South Sewer Treatment Plant (WSSTP). In order to provide up to date information for Councils consideration consultants, Sinclair Knight Merz (SKM), were commissioned in November 2009 to undertake an updated odour study at WSSTP. Odour emissions from the WSSTP were modelled for the current operating conditions and three odour control scenarios.

The existing land use and zonings surrounding the WSSTP meet the New South Wales Department of Environment, Climate Change and Water (DECCW) recommended criteria for odour for the existing plant conditions.

The SKM odour study report found that without odour management works being undertaken at the WSSTP, odour emissions from the existing plant "*will provide a moderate to high likelihood of future odour complaint in the Tournament Field/Grand Stand area of the proposed development*". That meeting the DECCW odour assessment criteria "*will not always protect Council from prosecution under the POEO Act*" for sustained odour complaints and orders for corrective works.

This report discusses the potential implications and points of consideration in approval of the development.

RECOMMENDATION

- 1** *That Council develop an appropriate odour mitigation and avoidance strategy for land surrounding Wyong South Sewage Treatment Plant.*
- 2** *That Council note this report and its conclusions outlined at page five of this report.*

BACKGROUND

Consultants, SKM were commissioned to undertake an updated odour study of the WSSTP. The deliverables from this study include the development of odour contours for the existing plant and possible mitigation strategies to reduce odour emission sources at the plant.

The consultants, in their report have identified the following;

"The DECCW regulates air quality in NSW, and has set odour criteria objectives for odour producing activities such as sewer treatment plants (STPs) that are intended to minimise the adverse effects of odours on sensitive receptors. Under the Protection of the Environment Operations (POEO) Act 1997, the WSSTP is not permitted to emit any offensive odour beyond the premises (buffer zone) boundary. An offensive odour is defined as one:

that, by reason of its strength, nature, duration, character, or quality, or the time at which it is emitted or any other circumstances:

3.3 Odour Study at Wyong South Sewerage Treatment Plant (contd)

- (i) *is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or*
- (ii) *interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted.*

Odour perception is very subjective and differs between individuals. The DECCW assessment criteria were designed to take into account the range of odour sensitivities within a community and are based upon population densities shown in Table 1.”

Table 1: DECCW Odour Assessment Criteria

Population of affected community	Odour criteria (OU)
Single residence <= 2	7.0
<10	6.0
<30	5.0
<125	4.0
<500	3.0
Urban area>2000, schools, hospitals	2.0

“In setting odour criteria DECCW define a sensitive receptor as:

....a location where people are likely to work or reside; this may include a residential dwelling, school, hospital, office or public recreational area”.

“As relevant to the Mariners’ development:

.....it is clear that people attending the complex in any capacity would be defined as sensitive receptors but there is no clear direction as to an appropriate criteria for this type of development”.

In this regard the conservative approach has been taken to adopt the urban area odour performance criterion of two odour units (OU) in this assessment as it is typically used for odour impact assessments in residential areas, schools and hospitals. The consultants identified that “two OU is considered to be appropriate for the accommodation area” of the development however may be “too stringent” for the stadium area given the “frequency of use and the likelihood of adverse odour impacts occurring at times when the tournament field is in use.”

Current Surrounding Land Uses

WSSTP is located off Wyong Road approximately five kilometres south of the main Wyong business area.

Land currently surrounding the WSSTP is zoned 5a Sewer Buffer which restricts the amount of development that occurs in direct proximity to the WSSTP. Beyond this area the land to the west of the site is zoned for industrial uses. In the adopted Wyong Tuggerah Planning strategy this area is designated as remaining employment land, therefore the current industrial zoning is likely to remain in place for the medium term. The land to the west of the WSSTP is likely to be development of a form similar to those found on Tuggerah Straight and as such may be vulnerable to odour impacts requiring the need of an appropriate odour management strategy. This zoning excludes medium density residential development and accommodation.

To the east the land is zoned 1c Non Urban Constrained land and is generally only sparsely developed.

The 2009 SKM Odour Study report indicates that the development site for the proposed Mariners’ complex has similar affectation that exists for the industrial lots fronting Wyong Rd

at the Tuggerah Business Park. The uses proposed by the Mariners' development are more sensitive to the impact of odour as they include recreation, outdoor use, dining and accommodation. The updated modelling indicates that the playing fields and grandstand areas of this development are vulnerable to odour impact, as they lie within the two OU contour, and will require appropriate odour management and avoidance strategies to mitigate this impact.

Assessment of Data:

The odour contours represented within the report are based on one week of sampling undertaken at WSSTP in November 2009 and wind-roses based on 1992-1993 wind data. The odour contours represent the possible level of odour expected to occur 1% of the time on an annual basis. The odour contours represented within the report are typically for atmospheric stability conditions associated with still early morning conditions. Modelling of the odour impacts outside of these conditions (ie between 9am and midnight at the times when people would most likely be attending the grandstand area) indicated a small reduction in odour impacts but not substantial enough to change the findings of the SKM report.

In order to assess the possible impact that odours may have on the proposed Mariners' development the odour contours for WSSTP have been superimposed over the proposed development layout. These are shown at Attachments 1 and 2 and can be summarised below:

- 1 Current WSSTP Operating Conditions (attachment 1) – odour contours indicate that;
 - a The grandstand and all outside car parking, playing and training areas will be within the two OU contour and that,
 - b The amenities, administration and accommodation facilities lie outside of the two OU contour.
- 2 Future WSSTP Operating Conditions (attachment 2), including the identified odour control work at the inlet works and sludge lagoons, indicate that (at \$2.15M + \$0.2M annual operating costs),
 - a 50% of all outside playing and training areas will be within the 2 OU contour and that,
 - b The amenities, administration, accommodation facilities, outside car parking and grandstand lie outside of the 2 OU contour.

Odour Impacts on the Mariners' Development Area:

The consultants report indicated that odour impacts from the existing WSSTP *“are considered to provide a moderate to high likelihood of future odour complaints in the Tournament Field/Grand Stand area of the proposed development”*. *“In other areas of the development considered odour sensitive, including the “accommodation” area, impacts from the existing plant are not anticipated to cause adverse odour impacts”*.

The consultants state that adopting the identified odour control work within the WSSTP *“should not, under normal operating conditions, result in adverse odour impacts within the proposed development”*.

The above impacts are based on normal operation of the WSSTP. There remains the potential odour impacts *“from any malfunction or maintenance events which can result in higher odour generation”* than identified by the SKM modelling report. Council, as part of its odour management strategy, will need to consider the range of potential operations that

result in higher odours than those normally generated by the plant and the ability of these to be managed so as not to coincide with events being held in the Mariners' site.

Odour Mitigation Strategies:

Based on the current land zoning and the existing WSSTP no odour mitigation works have been identified as being required. Odour contours for the existing plant are consistent with the current land use zoning and no additional capital works are planned to mitigate odours. The odour contours for current conditions are shown at Attachment 1.

As detailed above odour impacts from the existing WSSTP *"are considered to provide a moderate to high likelihood of future odour complaint"* in some areas of the development in particular the outside playing areas. The consultants report concluded that *"Council in considering the proposed development will need to consider a range of factors relevant to the potential odour impacts from the adjacent WSSTP"*.

"DECCW (DEC 2006) has provided the following relevant points of consideration when developing odour mitigation and avoidance strategies:

- 1 *Strategic approaches through appropriate land-use planning,*
- 2 *Appropriate site selection for new activities,*
- 3 *Managing odours at the source including best management practices and best available control technology,*
- 4 *Management of Odours at the receptor,*
- 5 *Negotiated solutions between Council and the affected individuals"*.

"Points 1 and 2 above are central to the decision currently before Council with respect to the Mariners' development". The SKM assessment *"has shown that the development may be feasible contingent on odour management at the WSSTP being implemented"* under Point 3 as detailed below.

Point 3 - The SKM assessment identified that other works could be undertaken to mitigate odours. The best value and most significant reduction of odour involve the elimination of the sludge lagoons that have been identified as a significant source of odour. The above works are estimated to cost \$2.15M with additional ongoing operational costs of \$0.2M per annum. The annualised cost of this work is \$0.41M per annum over 20 years

Council's existing 2010/2011 Rolling Works Program includes work to replace the existing WSSTP inlet works. The existing inlet works and odour control system are corroded and have been identified for replacement. The new inlet works will also include screens and grit removal that will enhance operation of the plant and will avoid maintenance works that have been identified in the SKM report as potential sources of adverse odour impacts on the development. The SKM report also identified that as the existing inlet works has odour control the upgrade work will not make any significant difference to the odour contours shown in the report. The odour contours for controlled conditions incorporating the sludge lagoons and the inlet work are shown at Attachment 2.

Further opportunities for reduction of odour impacts will need to target the aeration tanks. The tanks collectively have a high surface area and as such have the potential for significant odour impacts off-site. Odour control from aeration tanks involves covering the tanks and installing large odour control facilities. Given the large surface areas involved this form of odour control will have significant costs. A similar exercise at Warriewood STP in Sydney has costs in the order of \$25M to bring acceptable odour contours back to the treatment plant boundary. The impact of this work on the odour contours have not be considered in this report.

Points 4 and 5 include negotiated solutions with potentially affected parties, in this case the Mariners. Should the development be approved possible points of consent could include;

- Inclusion of appropriate air treatment/conditioning systems for living and working areas,
- Scheduling of events at the Mariners' Development and the WSSTP to avoid high odour generation maintenance works and
- Agreement and acknowledgement between Council and the Mariners that the proposed development is located next to a sewage treatment plant and may be subject to odours. This may be in the form of a Section 149 certificate however users of the proposed development (i.e. spectators/patrons etc) are most likely to have an expectation that they will not be subject to any adverse impacts from nuisance odours after paying for admission and would be impossible to include in any "negotiated" solution.

Risks to Council

Several significant risks to Council have been identified and these include:-

- The WSSTP may produce periods of unacceptable odour due to plant malfunction or during maintenance,
- The DECCW guidelines cannot give protection to Council against possible action from DECCW for an improvement notice under the POEO Act,
- Council may be prosecuted under the POEO Act in particular where odour complaints are deemed to be valid and it can be demonstrated that Council's WSSTP operation is not "best practice" in terms of odour mitigation,
- Where complaints are valid and proven Council may be directed to implement additional odour mitigation measures that will have significant impacts on Council's finances.

Conclusions;

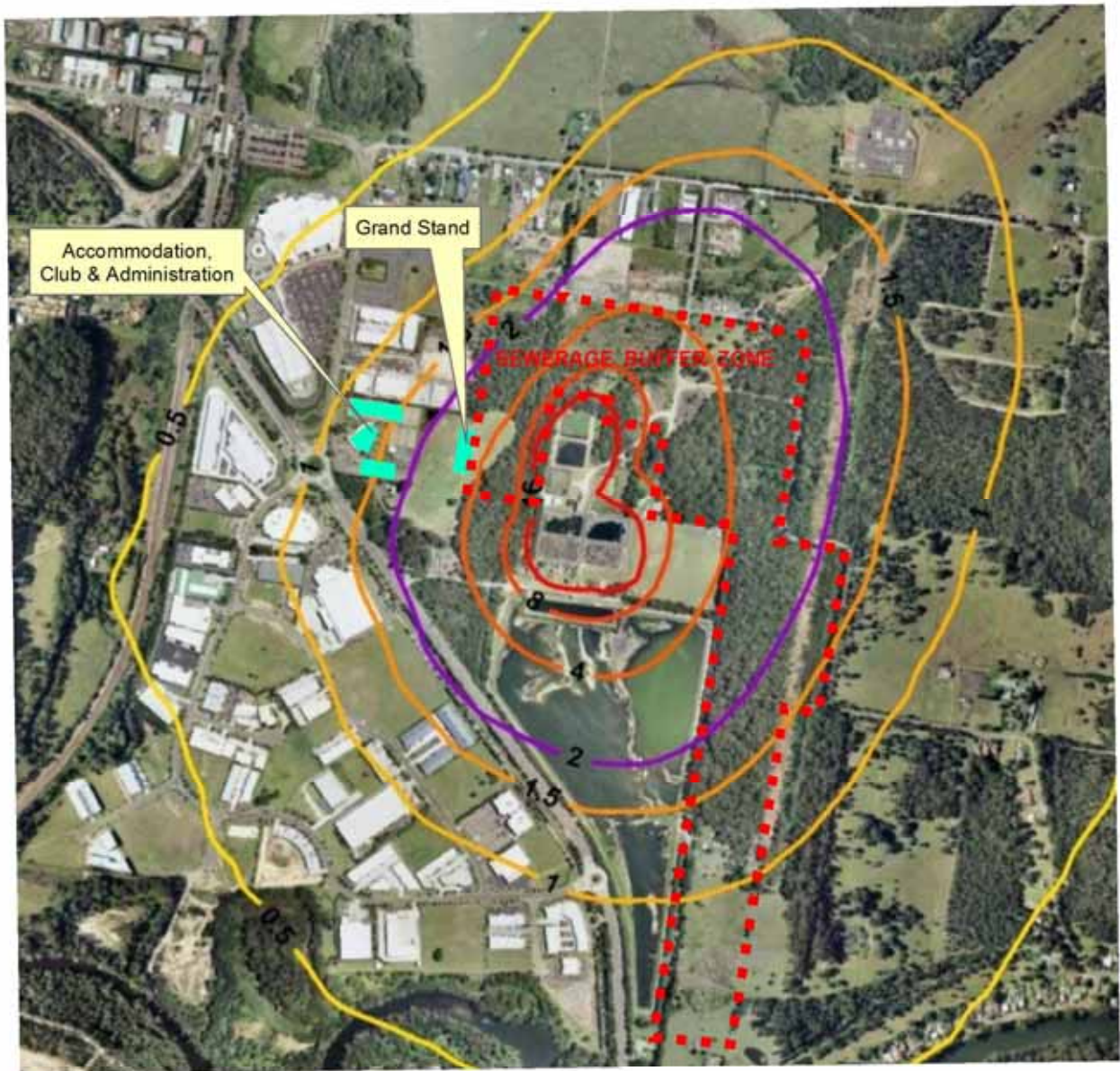
- That odour contours for the existing WSSTP are consistent with the current land use zoning and no additional capital works are planned to mitigate odours,
- That odour emissions from the existing WSSTP will provide a moderate to high likelihood of future odour complaints within the Tournament Field/Grandstand area of the proposed development. These emissions however are not anticipated to cause adverse odour impacts within the accommodation area of the development with normal operation of the WSSTP,
- That Council develops an appropriate odour mitigation and avoidance strategy for land surrounding the WSSTP incorporating appropriate development and land use approvals, application of best practice management and control technologies at WSSTP and negotiated solutions with affected development to manage odours at the receptor,
- That if odour management works at the WSSTP to the value of \$2.15M (plus \$0.2M annual operating costs) are undertaken adverse odour impacts within the development are not expected with normal operation of the WSSTP,
- That even if odour management works are undertaken Council will not be protected against prosecution under the POEO Act should it be demonstrated that the operation causing the odour complaint is not best "best-practice" utilising the "best available control technology" in terms of odour mitigation. This will require Council to undertake a Pollution Reduction Plan to implement further odour mitigation measures at additional cost.

ATTACHMENTS

- | | | |
|---|---|---------------------|
| 1 | Odour Dispersion Model for Existing Plant | D02097247 |
| 2 | Odour Dispersion Model for Existing Plant with Sludge Lagoons Removed | D02097250 |
| 3 | Enclosure Wyong STP Odour Assessment - Final Draft - SKM | Enclosure D02097413 |



Figure 5.2
Existing Scenario



Legend




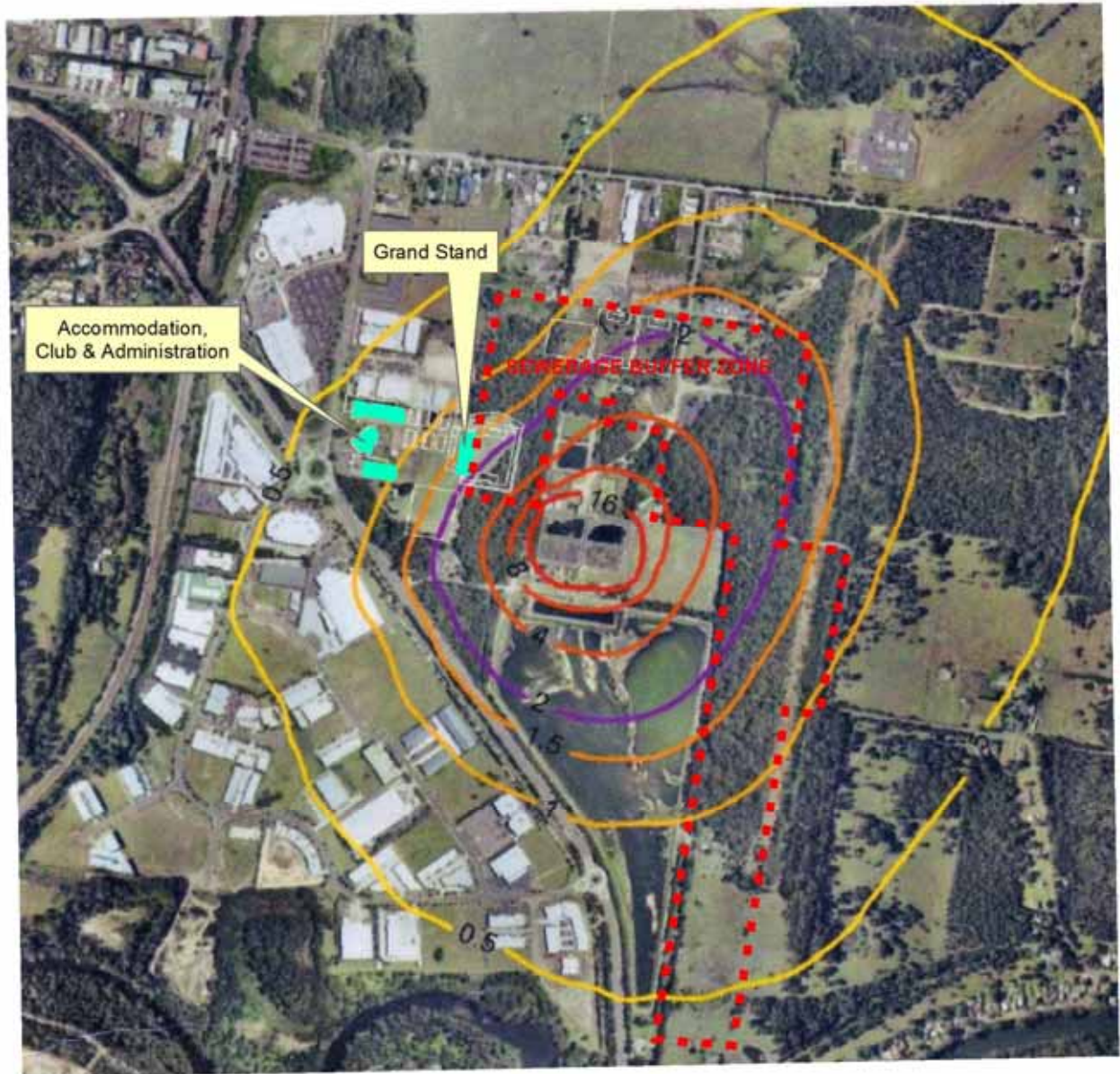



-  Proposed Mariners Facilities
-  Sewerage Buffer Zone
-  Odour Contour



Figure 5.6
Control Scenario 4



Legend

-  Proposed Mariners Facilities
-  Sewerage Buffer Zone
-  Odour Contour

3.4 DA 1114/2009 - Proposed Construction of a Recreational Area, Parking and Landscaping at Tuggerah

TRIM REFERENCE: DA/1114/2009 - D02085326

AUTHOR: SP

SUMMARY

A development application for construction of a recreation area (training field) for use by the Mariner's Football Club and including parking and landscaping has been received by Council. The application has been assessed under Section 79C of the Environmental Planning and Assessment (EP&A Act) Act 1979, and is recommended for approval. The development is beneficial to the community in increasing the provision of recreational and sporting facilities within the Central Coast region.

Applicant	Mariners FC Unit Trust
Owners	Wyong RSL Sub-branch Club Limited
Application No	DA/1114/2009
Description of Land	1 Bryant Drive, Tuggerah being primarily Lots 24 and 25 in DP.25373
Proposed Development	Recreational area, parking, access and landscaping
Site Area	16496 m ²
Zoning	4(b) Light Industrial, 1(c) Non Urban Constrained
Existing Use	Licensed Club and sporting facilities
Estimated Value	\$3.5 million

RECOMMENDATION

- 1 That subject to Council endorsing the use of Lot 3A in DP 367658 and Lot 3 in DP 650650 for offsetting the impacts of clearing associated with this development, the application be referred to the General Manager for determination with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions. This recommendation has given regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues***
- 2 That Council vary Development Control Plan 2005 Chapter 80 – Tuggerah Precinct, to permit the development.***

BACKGROUND

PRECIS

- The proposal is seeking approval for construction of a training field including parking and landscaping for use by the Mariner's Football Club.
- Variation is sought to the required 5 metre landscaped setback to Ibis Road.

- The development is related to the development of the adjoining site as an entertainment facility for the Mariner's Football Club (under DA/612/2009) and it is envisaged the subject proposal would operate in conjunction with both the Mariner's entertainment facility and existing RSL club activities.
- No submissions were received from notification of the application.
- Conditions of consent have been included to address outstanding matters related to the impacts of the proposal, including water management issues and evacuation management in the event of a flood hazard.

INTRODUCTION

The Site

The subject site is irregularly shaped and located near the corner of Wyong Road and Bryant Drive but with no frontage to these roads. The site has a street frontage to Ibis Road in the south although no formal vehicular access exists from the site to Wyong Road. The Ibis Road frontage contains existing dense vegetation. The site currently operates in conjunction with the adjoining site to the north (known as Lot 21 in DP.654119) accommodating the existing Wyong RSL (Club Tuggerah) and sporting facilities.

Adjoining the site to the south along Ibis Road is an existing dwelling house that although zoned light industrial enjoys existing use rights as a residential dwelling. Located to the north west of the site along Bryant Drive is the 'Supa Centre' containing bulky goods and factory outlet retail activities. Other development surrounding the site includes light industrial activities along Bryant Drive and the Tuggerah Business Park located on the opposite side of Wyong Road. Adjoining the site to the east is the existing Wyong South Sewage Treatment Plant.

The site is generally level and primarily comprises two existing lots, the majority of which are cleared but with significant vegetation located in the southern portion of the site and alongside the western boundary on Council owned land. This vegetation contains an Endangered Ecological Community (EEC) known as Swamp Sclerophyll Forest on coastal floodplain. The site is identified as bushfire prone land and although the site is not designated as flood prone, it is subject to localised flooding impacts. The existing vehicular access to the site is from Bryant Drive.



The Proposed Development

The application seeks approval for development of the site as a recreation area comprising training field, parking, landscaping and access. This application is related to the development of the adjoining site as an entertainment facility for the Mariner's Football Club (under DA/612/2009) and it is envisaged the subject proposal would operate in conjunction with both the Mariner's entertainment facility and existing RSL club activities. The proposal is intended to function as the main training and support base for the Central Coast Mariners Football Club.

A summary of the proposal includes:

- Creation of a training field.
- A series of interconnected car parking areas accommodating 249 spaces.
- Ancillary landscaping and access.

The playing fields and parking facilities are proposed to be available seven days a week and are intended to be used for training purposes by the Mariners A-league, Y-League, W-League, Futsal League teams and associated sporting groups and will operate as overflow parking during major events on the tournament field on the adjoining site.

It is noted that the training field is to be designed and constructed to also function as an overflow, informal parking area for major events. The proposed operating hours for the field are between 8:00am – 10:00pm, 7 days.

Summary

This application has resulted from the resolution of issues related to DA/612/2009 on the adjoining site to the north. This included consideration of legal advice regarding the characterisation of the overall land use including the proposal on land adjoining the site to the north under WLEP 1991. The advice recommended in order to ensure that all components of the overall development could be considered as permissible uses within the specific zones upon which they are to be located, that the development be considered as two separate development applications.

Many of the issues raised under DA/612/2009 are also relevant to this application including stormwater, access and landscaping. Conditions have been included to address these issues and it is acknowledged that many of these issues and the consent conditions that apply, overlap the two applications for the Mariner's development.

VARIATIONS TO POLICIES

Clause	6.2.10.6
Standard	5 metre landscape setback (to Ibis Road)
LEP/DCP	Chapter 80 – Tuggerah Precinct
Departure basis	1 metre provided (80% variation)

PERMISSIBILITY

The subject site is zoned part 4(b) Light Industrial, and part 1(c) Non Urban Constrained Lands under the WLEP1991.

Clause 10 of the LEP requires that *Council must not grant consent to the carrying out of a development...unless, in the opinion of the Council, the proposed development is compatible with the objectives of the zone within which the development is proposed to be carried out.*

The objectives of the 4(b) zone are:

- (a) *to provide opportunities for the development of a wide range of industrial, service and storage activities which do not have a materially detrimental effect on the amenity of adjoining residential areas, and*
- (b) *to restrict commercial, retail or other development except where it is ancillary to the use of land within this zone for light industrial, service and storage purposes, and*
- (c) *to enable the Council to provide more detailed guidelines about industrial development in a development control plan.*

The objectives of the 1(c) zone are:

- (a) *to limit the development of land that may be affected by flooding, coastal erosion, slope, and other physical constraints (including lack of adequate water supply and sewerage), and*
- (b) *to prohibit development that is likely to prejudice the present and future environmental quality of the land, and*
- (c) *to ensure that development is carried out in a manner that minimises risks from natural hazards and does not detract from the scenic quality.*

The development seeks approval for a proposed new playing field and related parking and would be defined as a 'recreation area'. A 'recreation area' is permissible within both the 1(c) and 4(b) zonings of the site.

Under WLEP 1991, the following definition is relevant for consideration.

recreation area means:

- (a) *a children's playground,*
- (b) *an area used for sporting activities and sporting facilities,*
- (c) *an area used by the Council to provide recreation for the physical, cultural or intellectual welfare of the community, or*
- (d) *an area used by a body of persons associated for the purposes of the physical, cultural or intellectual welfare of the community to provide recreation for those persons, but (in the Table to clause 10) does not include a building or place elsewhere specifically defined in this clause.*

In accordance with Clause 10 of WLEP 1991, the proposed construction of a new playing field and, landscaping and parking is considered compatible with the objectives for both the 4(b) and 1(c) zonings of the site.

Council should note that a request for an amendment to WLEP 1991 was received by Council on 12 October 2009 for the rezoning of the subject land. The request seeks an amendment to Clause 52 (Development for Certain Additional Purposes) and Schedule 2 of WLEP 1991 to permit an "integrated sports and recreation facility, incorporating playing fields, futsal courts, administration buildings, health centre, function centre, licensed club, commercial premises, motel, medical centre, ancillary amenities and associated car parking." This rezoning will provide greater flexibility for consideration of compatible future land uses on the site.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 71 – Coastal Policy
- Wyong Local Environmental Plan 1991
- Wyong Shire Development Control Plan 2005
 - Chapter 14 - Tree Management
 - Chapter 61 - Carparking
 - Chapter 67 - Engineering Requirements for Developments
 - Chapter 69 - Controls for Site Waste Management
 - Chapter 70 - Notification of Development Proposals
 - Chapter 80 - Tuggerah Precinct
- Landscape Policy and Guidelines
- Waste Management Guidelines
- Planning for Bushfire Protection 2006
- Wyong/Tuggerah Planning Strategy

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

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

Climate Change

The potential impacts of climate change on the proposed development have been considered as part of the assessment of the application. This assessment has included consideration of such matters as potential rise in sea level, potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, and flood; as well as how the proposed development may cope / combat / withstand these potential impacts. Additionally, the proposal includes the removal of some existing vegetation on the site including vegetation identified as EEC in the southern section of the site. The applicant will be required to compensate for the areas of vegetation loss on Council owned land through a vegetation management plan (VMP) and positive covenant. Accordingly a condition will be included on any consent issued for the development. It is noted that the development incorporates rainwater tanks for reuse on the fields and the adoption of bushfire protection measures considerations in the design.

ASSESSMENT

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

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):**State Environmental Planning Policy (SEPP) (Infrastructure) 2007**

The development site has a small frontage to Ibis Road. There is approximately 20 metres distance from the intersection of Ibis Road to Wyong Road which is identified as a classified road. There is currently no vehicular access to the site via this Ibis Road frontage, however, it is proposed that a two way access road will be constructed at this location to service this site and the adjoining site to the north (ie. containing the proposed Mariner's entertainment facility).

Clause 104 and Schedule 3 of SEPP (Infrastructure) 2007 requires that development identified under Column 1 (which includes an area for ancillary parking accommodation for 200 or more motor vehicles) requires referral to the RTA. The development proposes the construction of 249 new parking spaces on the site and therefore in accordance with this Clause, the proposed works for the application (originally included under DA/612/2009) were referred to the RTA for comment. The requirements of the RTA have been addressed as conditions of consent.

State Environmental Planning Policy (SEPP) 71 – Coastal Policy

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

Wyong Local Environmental Plan 1991 (WLEP 1991)

Clause 10 - Zoning

The subject site is zoned part 4(b) Light Industrial, and part 1(c) Non Urban Constrained Lands under the WLEP 1991 and the development is considered to be compatible with the zone objectives and is consistent with Clause 10.

Clause 15 - Development on land Containing Acid Sulphate Soils

The site is identified as Class 4 on the Acid Sulphate Soils Planning Map. Under Clause 15(4) of the WLEP, a preliminary acid sulphate soils assessment report is required to be undertaken in accordance with the *Acid Sulphate Soils Assessment Guidelines* for any works *beyond two metres below the natural ground surface* or works *by which the water table is likely to be lowered to any point beyond two metres below the natural ground surface*.

The proposal includes filling of the site and does not include any significant below ground building works other than that as necessary for footings or drainage related works. In the event that the proposal involves any works beyond 2 metres below natural ground, conditions have been included. Conditions will be included requiring the applicant to prepare and submit an acid sulphate soils assessment report prior to issue of a Construction Certificate and that any recommendations of that report be adopted as part of the development prior to commencement and during works.

Clause 29 - Services

Water

The overall servicing for this site and the adjoining site located to the north has been reviewed and it is considered that the proposal can be serviced for water from the existing water main and two points of connection to water supply are required for this development to ensure security of supply. The applicant has indicated that Council's potable water supply will not be used for irrigation purposes. Water harvesting and reuse in relation to irrigation demands has not been justified within the application, therefore, conditions are to be included within any development consent granted. On this basis arrangements are considered satisfactory for the provision of water supply.

Sewer

The overall servicing for this site and the adjoining site located to the north has been reviewed and it is considered that the site is currently serviced for sewer via the existing on-site private sewage pumping station. Plans submitted for servicing the development for sewer propose a gravity system to drain to the existing Sewerage Pump Station. This option would require significant vegetation removal, and would not be supported on ecological grounds. Accordingly, the developer will be required to investigate the following options to service the development for sewer.

Wyong Shire Development Control Plan (DCP)2005

DCP Chapter 14 – Tree Management

Wyong DCP Chapter 14 applies to the development and it is recommended that due to the existence of remnant vegetation communities within the proposed development, species within these communities are to be incorporated into new plantings for the development.

Species that are to be included into the development as shown on the landscape plan include:

- Eucalyptus pilularis – (Blackbutt)
- Angophora floribunda – (Rough Bark Apple Gum)
- Angophora costata – (Sydney Red Gum)
- Eucalyptus tereticornis – (Forest Red Gum)

Conditions are also to be included requiring the adoption of tree protection measures.

DCP Chapter 61 - Carparking

The proposal includes provision of 249 parking spaces with provision of informal overflow parking on the proposed training field. It is noted that under the proposal the construction of the training field will result in the loss of 55 spaces located on the adjoining site to the north (and included in the parking calculations for this adjoining site) and creation of an additional 14 spaces (which would straddle both the subject and adjoining sites). The total number of available parking spaces when combined across the two sites would be 556 spaces.

The applicant prepared a traffic report including calculations and justifications for parking generation for the various elements of the development. The parking rates used for the calculations include consideration of rates under DCP Chapter 61 and alternative estimates where no relevant calculation under the DCP is applicable. As discussed in the planning report for DA/612/2009, DCP Chapter 61 requires consideration of each of the land uses in isolation from each other, whereas, the core nature of this use is in the relationship that all uses on the site have with each other in combination to form an entertainment facility for the Mariner's Football Club. The calculation of parking demand on the site under the applicant's report includes consideration of the integrated nature of uses on the site (ie. multi purpose trips) and varying times of operation for each use with the peak operation of some of the uses being concurrent and others not. The parking demand generated by the proposal when considered overall is more than satisfied by the parking facilities provided.

It is noted that the proposed training field has also been designed to cater for overflow informal parking demand on the adjoining entertainment facility site located to the north, during peak events, such as weekends when the tournament field is used for games.

DCP Chapter 80 - Tuggerah Precinct

Wyong DCP Chapter 80 – Tuggerah Precinct applies to the development. Under DCP Chapter 80, the objectives and controls contained within Parts B and C (Area C- Lake Road) apply to the development. The development is consistent with the DCP aims to encourage high quality urban design and the development of a multi-functional Regional Centre.

3.4 DA 1114/2009 - Proposed Construction of a Recreational Area, Parking and Landscaping at Tuggerah (contd)

Part B – The Controls

Part B contains the general DCP controls applying to the development of the site. The development is consistent with the relevant controls under this section in relation to:

- the positive aesthetic design of the development,
- satisfactory soil and stormwater management for the development,
- maintenance of environmental values,
- positive contribution to the visual presentation and aesthetic quality of the public domain, and
- the visual impact of the development and landscape treatment to Wyong Road.

Landscaping and Setbacks

In accordance with DCP Chapter 80 (Clauses 5 and 6) the development complies with the following requirements:

- The required Category 3 Landscape Plan has been provided for the area on the site facing Wyong Road.
- The required minimum 10 metre building setback has been provided to Ibis Road with a landscaping setback comprising native shrubs being provided along this street frontage.

However, this landscaped setback does not comply with the minimum 5 metre depth across the length of the site frontage. Despite this minor non compliance, it is considered that the site will be well screened with landscaping when viewed from both Ibis Road and Wyong Road which is the objective of the DCP control. Additionally, it is noted that the site frontage to Ibis Road is narrow at only 18 metres in width. Additionally, there is currently a section of road reserve (7-24m) extending in front of the site between the site boundary and Ibis Road Ibis Road that contains existing established vegetation.

Part C – Area Plans

The site falls within Area C – Lake Road (specifically Area C1 – Recreation) under DCP Chapter 80. The development is consistent with the vision statement and area objectives. The development complies with the development controls within this section of the DCP as no buildings are proposed under this application.

DCP Chapter 67 - Engineering Requirements for Developments

Stormwater plans and a sediment erosion control plan have been submitted for the development. The imposition of relevant conditions of consent will be required to address the outstanding matters.

DCP Chapter 69 - Controls for Site Waste Management

The generation of waste by this proposal is anticipated to be acceptable provided that a licensed contractor is engaged to collect, handle and transport the waste to a licensed facility.

Wyong/Tuggerah Planning Strategy

The Wyong Tuggerah Planning Strategy identifies a regional open space and recreation corridor which includes the subject site. The strategy identifies opportunities existing to improve pedestrian/cycling linkages between the recreational facilities within the open space corridor that extends along the eastern side of the Wyong/Tuggerah area. It is noted that the strategy also identifies the investigation of the possibility of rezoning the eastern side of Bryant Drive to provide land for employment generating purposes. The proposal is considered consistent with the future aims for the area under the strategy.

Landscape Policy and Guidelines

Council's Landscape Policy and Guidelines requires the landscape design for the development to be carried out as a Category 3 development that requires the expertise of an approved Landscape consultant. A landscape plan accompanied the application that complies with the requirements of the Landscape Policy.

A condition will be included to ensure that the landscape works are constructed and maintained in accordance with Council's Policy including the engagement of an approved landscape consultant and contractor to undertake the work.

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

The access, transport and traffic management measures.

The applicant prepared a traffic report to assess the impacts of the proposal upon the surrounding road system for both this application and the development of the adjoining site (under DA/612/2009). The report included modelling of traffic along Bryant Drive to ascertain the impact of the proposed access to the site via Bryant Drive. The traffic report outlined two stages in the provision for vehicular access to the site. The first arrangement would include the permanent access via Bryant Drive and via Ibis Road using a left in and left out facility. This would include provision of a Type C intersection in Bryant Drive (protected right turn from Bryant Drive) and modified median/splitter islands and an upgrade of Ibis Road/Wyong Road intersection to include acceleration and deceleration lanes. The second stage would introduce the installation of traffic control signals at the intersection of Wyong Road and Ibis Street to provide a controlled right turn lane into Ibis Road and out of Ibis Road. The RTA had agreed to this staging for the provision of satisfactory access for the development. The RTA would require the commencement of the second stage depending on the level of service provided at the subject intersection. Internal circulation has been demonstrated to be generally satisfactory for all anticipated vehicles. The report concluded that the proposed development would not have an adverse impact on the public road network and that the proposed provisions for access, parking and servicing will manage the demands generated by the development.

Bushfire hazard

The site is identified as bushfire prone land and subject to the provisions of Planning for Bushfire Protection (PBP) 2006. The applicant prepared a bushfire hazard assessment report for this site and the adjoining site located to the north containing the entertainment facility. The development proposed on this site does not constitute integrated development requiring issue of a bushfire safety authority, however, the works proposed on the site to the north does require issue of one under Section 100B of the Rural Fires Act 1997. There are no habitable structures proposed on the subject site, however, the site will need to be managed in conjunction with the adjoining site to the north in accordance with the recommendations of the bushfire report and PBP 2006. A condition will be included to address this matter.

Noise and vibration.

An acoustic report was prepared and submitted for the proposal which examined the potential noise impacts of the proposal in relation to the residential property located on Ibis Road. The report has been reviewed and it is considered that the proposal will have a negligible impact upon the environment if the actual noise levels are similar to those predicted in the Acoustic Report. To ensure that this occurs, specific conditions are imposed and will need to be adhered to for the proposal.

Water Management

Conditions are to be imposed to resolve outstanding stormwater, localised flooding and Water Sensitive Urban Design related issues raised in respect of the proposal. These conditions relate to water usage, water quality, the issues with stormwater drainage system design and the lack of provision for overland flow on the site.

Any effect on the flora and fauna.

The Flora and Fauna Assessment prepared for both this proposal and the development of the adjoining site to the north (under DA/612/2009), identified two vegetation communities on the site including Swamp Sclerophyll Forest and Blackbutt Forest. The Swamp Sclerophyll Forest is listed as an EEC.

Based on the field surveys, habitat assessments and mitigation measures and provided that the conditions listed below are complied with, it is concluded that there is not likely to be a significant impact on any threatened species, populations or ecological communities as a result of the development. A Species Impact Statement (SIS) or referral to the Department of Environment, Water, Heritage and the Arts is therefore not necessary. Conditions of consent have been imposed to minimise the flora and fauna impacts associated with the proposal.

Whether the development provides safety, security and crime prevention.

The proposal incorporates design features and passive security management measures to discourage anti social behaviour and minimise the opportunities for criminal activities. Adequate lighting and signage will be provided throughout the development and landscaping designed to minimise the opportunity for concealment and to ensure that clear sight lines within the development will be maintained. A condition will be included to ensure that the development is consistent with the requirements for safety, security and crime prevention.

Disabled access and facilities

An accessible path of travel is to be maintained throughout the development. Accessible parking spaces are to be provided in close proximity to the entries for buildings and facilities. Accessible toilets and other facilities are located within each building. A condition is to be included requiring the development to comply with the requirements of the Disability Discrimination Act (DDA).

Any impacts of construction activities.

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

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

The site is well positioned close to Tuggerah Railway Station and accessible to bus services along Wyong Road. The site has a history of use for sporting and recreational purposes associated with the existing RSL club located on the site. Although the site is bushfire prone and flood affected, these constraints have been considered in the siting and design of the development. One further potential constraint to development on the site is the proximity of the development to the Wyong South Sewage Treatment Works and the new development works and intensified use of areas within the designated sewerage buffer zone. A report has been prepared regarding the potential odour impacts from the Sewage Treatment Works on the development and conditions will be imposed requiring measures to be adopted as part of the development to mitigate odour impacts. There are no site constraints that would classify the site unsuitable for the development proposed.

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

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

Any submission from public authorities.

NSW Roads and Traffic Authority (RTA)

In accordance with Clause 104 (and Schedule 3) of SEPP (Infrastructure) 2007, the proposal (including the proposed entertainment facility to the north) was referred to the NSW RTA for comment (under DA/612/2009). Although initially raising concerns regarding the proposed access to Wyong Road, amended plans have been submitted and the RTA has subsequently advised of no objection to the amended proposal and access arrangements, subject to specified conditions being incorporated in the consent for the development.

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

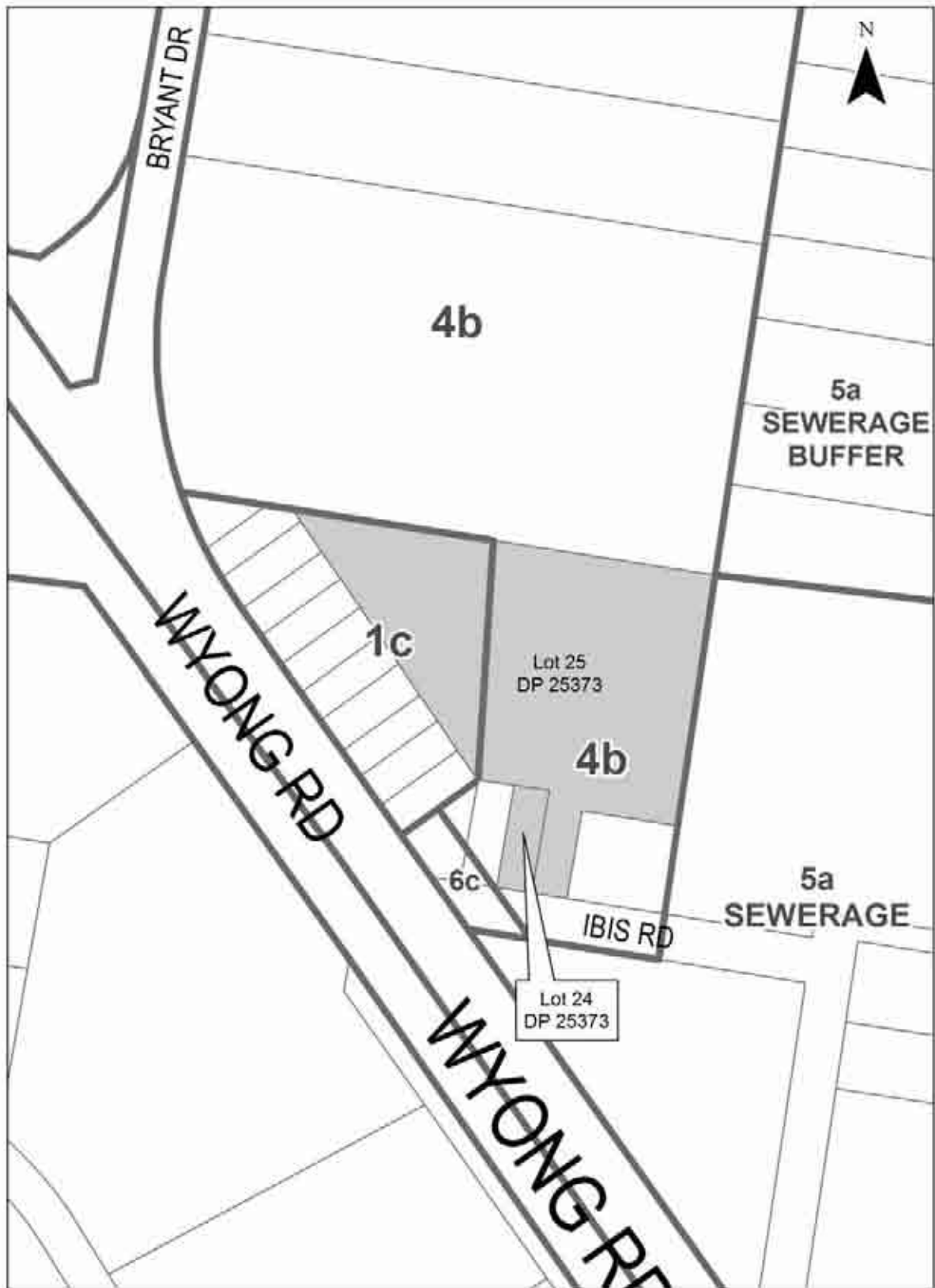
The development is part of the a larger development that will provide additional sporting and recreational facilities for the Central Coast considered beneficial to the local and community interest.

OTHER MATTERS FOR CONSIDERATION

Section 94

No contributions are payable for the development based on Council's S94 Plan No.1 – 'Wyong District and Part Rural West District'.



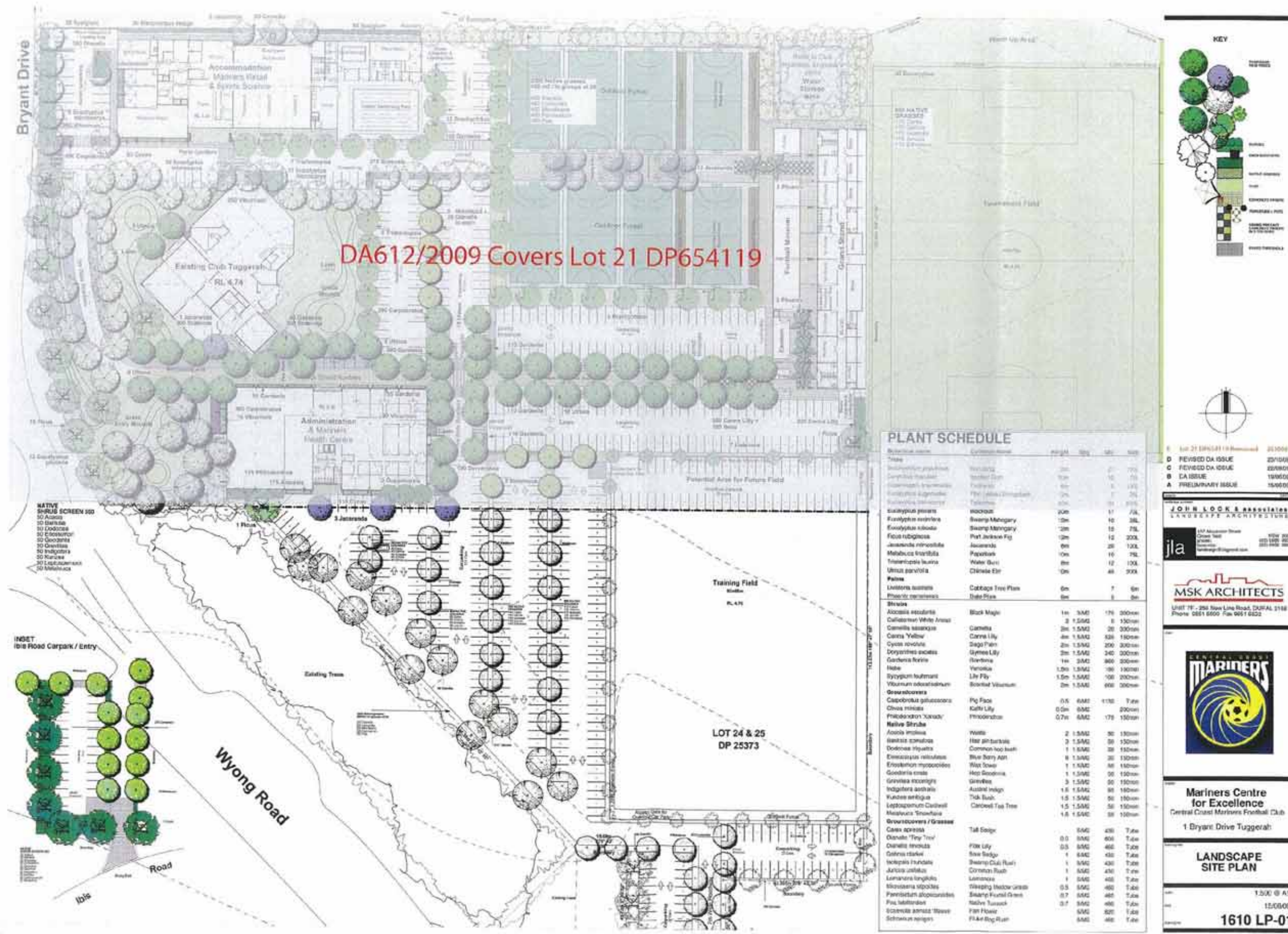


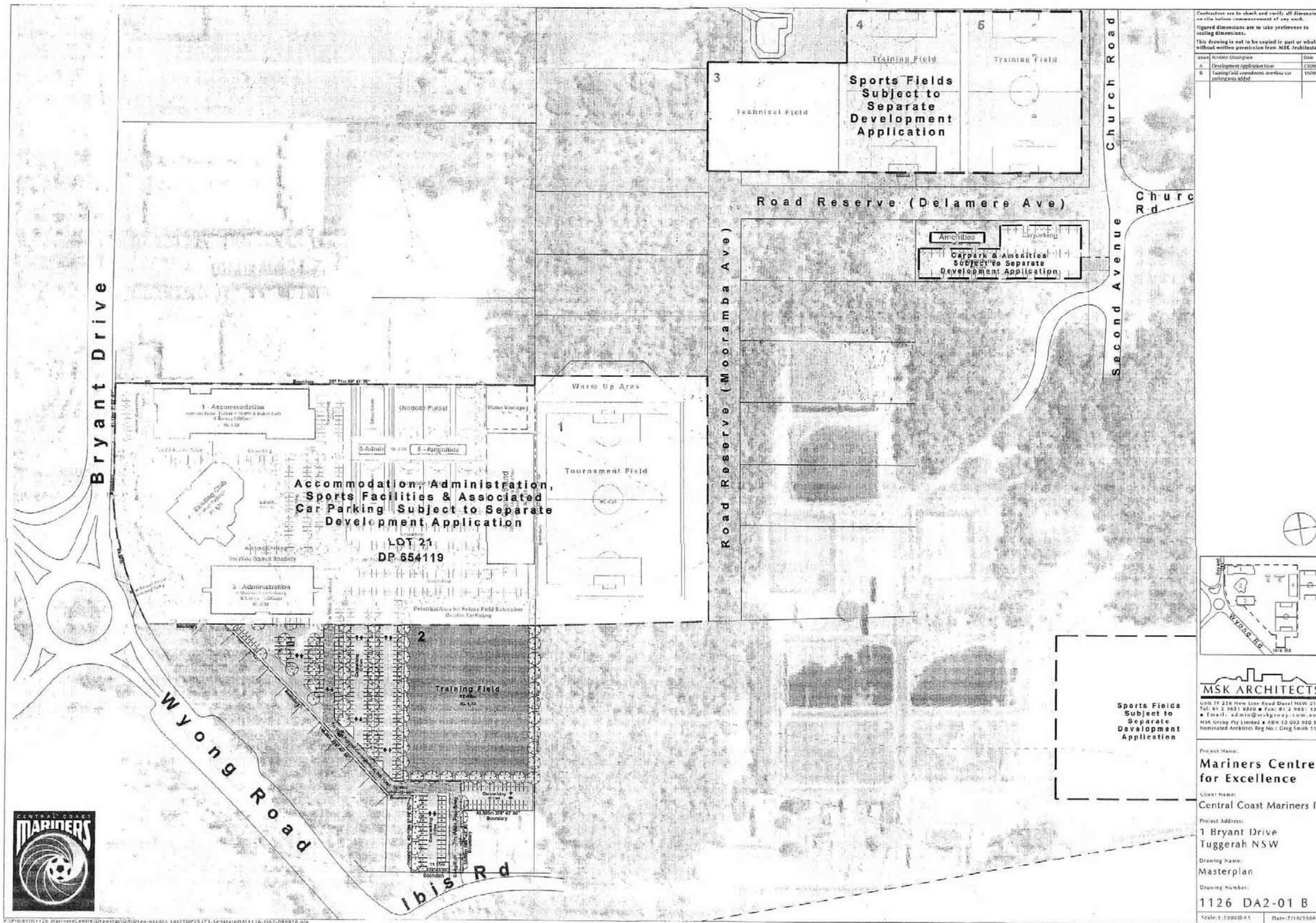
CONCLUSION

The development comprises part of a larger development which will provide additional sporting and recreational facilities for the Central Coast and will strengthen the sense of community identity for the Central Coast. This site benefits from established public transport facilities including a railway station and bus services. Although the development seeks a variation to the landscaped setback control for the development under DCP Chapter 80, the extent of variation is considered minor and the landscape screening of the parking area from Ibis Road and Wyong Road is considered adequate. Subject to satisfactory resolution of the potential odour impacts associated with the location of the proposal in close proximity to the Wyong South Sewerage Treatment Plant, the application is recommended for approval subject to conditions.

ATTACHMENTS

- | | | |
|---|---|-----------|
| 1 | Development Plan Landscape Site Plan (A3) | D02090450 |
| 2 | Masterplan (A3) | D02090451 |





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3.5 DA 612/2009 - Proposed Entertainment Facility and Ancillary Uses, Parking and Landscaping at Tuggerah

TRIM REFERENCE: DA/612/2009 - D02079069

AUTHOR: SP

SUMMARY

A development application for construction of an entertainment facility for use by the Mariner's Football Club including ancillary parking and landscaping has been received by Council. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, and is recommended for approval. The development is employment generating and will be beneficial to the community by increasing the provision of recreational and sporting facilities within the Central Coast region.

Applicant	Mariners FC Unit Trust
Owners	Wyong RSL Sub-branch Club Limited and Wyong Shire Council
Application No	DA/612/2009
Description of Land	1 Bryant Drive, Tuggerah being primarily Lot 25 in DP.25373, Lot 21 in DP.654119, and 17-25 Mooramba Avenue, Tuggerah, being Lots 80- 84 in DP.4008
Proposed Development	Entertainment facility
Site Area	57, 834.5 m ²
Zoning	4(b) Light Industrial and 5(a) Special uses - Sewerage Buffer
Existing Use	RSL Club and sporting facilities
Employment Generation	577 employees
Estimated Value	\$15 million

RECOMMENDATION

- 1 That subject to Council endorsing the use of Lot 3A in DP 367658 and Lot 3 in DP 650650 for offsetting the impacts of clearing associated with this development, and considering the implications of the November 2009 Wyong South Sewer Treatment Plant Odour Study, that the application be referred to the General Manager for determination with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions. This recommendation has given regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.***
- 2 That Council vary Development Control Plan 2005 Chapter 61-Carparking to permit the development.***
- 3 That those who made written submissions be advised of Council's decision.***

PRECIS

- The proposal is for construction of an entertainment facility for use by the Mariner's Football Club including ancillary parking and landscaping. The proposal is intended to function as the main training and support base for the Central Coast Mariners Football Club.
- Variation is sought to the parking provision under DCP Chapter 61 - Carparking.
- The site is bushfire prone land and flood affected.
- The site includes land zoned for the purposes of a sewerage buffer for the existing Wyong South Sewage Treatment Plant and the proposal includes significant intensification of the use of this land. There are potentially significant impacts of this and associated cost implications for Council that will need consideration in the determination of the application. This issue is reported in Item 3.3 of this business paper.
- Three submissions were received from notification of the application.
- The development is related to the construction of a training field, parking and landscaping for the Mariner's Football Club on the adjoining site to the south (under DA/1114/2009) and it is envisaged the subject proposal would operate in conjunction with the facilities on this site.
- Conditions of consent, have been included to address outstanding matters related to the impacts of the proposal, including water management issues and evacuation management in the event of a flood hazard.

The development will provide additional sporting and recreational facilities for the Central Coast that will result in additional direct and indirect employment opportunities and will have positive implications for the growth of the Central Coast.

INTRODUCTION**The Site**

The subject site is an irregular shape and is located on the eastern side of Bryant Drive at the corner of Wyong Road. The site contains the existing Wyong RSL (Club Tuggerah) and sporting facilities including tennis courts and playing fields. The site currently operated with the existing lot directly to the south also owned by the RSL club containing sporting facilities. Located opposite the site along Bryant Drive is the 'Supa Centre' operating as a bulky goods and retail factory outlet. To the north of the site along Bryant Drive, existing development comprises light industrial activities. The site includes land zoned for the purposes of a sewerage buffer for the existing Wyong South Sewage Treatment Plant which is located to the east of the site.

The site is generally level and primarily comprises six lots five of which are owned by Council. The largest lot is owned by Wyong RSL and is cleared but significant vegetation is located in the eastern portion of the site on Council owned land. This vegetation contains an Endangered Ecological Community (EEC) known as Swamp Sclerophyll Forest on coastal floodplain. The site is affected by the 1% AEP flood polygon and identified as bush fire prone land. The existing vehicular access to the site is from Bryant Drive.



The Proposed Development

The application seeks approval for development of the site as an entertainment facility related to the Mariner's Football Club. The entertainment facility would operate in association with the existing RSL club operations on the site. The proposal is intended to function as the main training and support base for the Central Coast Mariners Football Club. The proposal combines the functions of the existing RSL club on the site known as Club Tuggerah with a redevelopment of the site to provide sporting, recreational and other ancillary facilities related to the Mariner's Football Club to be known as the *Mariners Centre for Excellence*. The proposal is employment generating development for the Central Coast and represents an investment on the Central Coast with significant benefits for the immediate and broader community.

A summary of the proposal includes:

- Retention and refurbishment of the existing single storey club building including new covered entry and internal works.
- Creation of a tournament field and a grandstand for 2,000 spectators also including a museum, canteen, VIP facilities, media/broadcasting facilities, change rooms and amenities.
- Eight (8) futsal courts including two as show courts with seating.
- Six (6) storey building comprising a Mariner's health centre, gymnasium, sports science consulting rooms, Mariner's administration facilities and related administration tenancies (ie. Mariner's corporate partners), and ancillary amenities.
- A five (5) storey building accommodating a merchandise shop and storage warehouse, indoor swimming pool and hydrotherapy pool, amenities and accommodation (132 guest rooms), reception area, and restaurant/dining facilities and function areas.
- A series of interconnected car parking areas accommodating 348 spaces including 55 spaces as an overflow car park; and
- Ancillary landscaping and access facilities via Bryant Drive including a right of way access across the adjoining lot down to Ibis Road.

The playing fields, futsal courts and sports science centre facilities are proposed to be available seven days a week and are intended to be used for training and competition purposes by the Mariners A-league, Y-League, W-League, Futsal League teams and associated sporting groups. The applicant aims to generate new Club Tuggerah (RSL) and Mariner's members and season ticket holders as a consequence of the ability to offer members, supporters and guests a comprehensive range of sports and recreational facilities in a highly accessible location.

The Mariners health centre and administration building will generally operate between 8:00am to 6:00pm Monday to Friday and is intended to provide health support services to members, guests and visitors with an emphasis on sports medicine and general diagnosis, treatment and rehabilitation. The Centre will utilise the common parking areas throughout the development.

3.5 DA 612/2009 - Proposed Entertainment Facility and Ancillary Uses, Parking and Landscaping at Tuggerah (contd)

The function centre and recreational fields/courts will generally operate 7 days a week from 8:00am to 10:00pm. This includes the tournament field which will operate weekdays for training and on the weekend for games. The accommodation will operate 7 days with check in at 2:00pm and check out at 10:00am.

Summary

During the assessment of the application, a number of issues were raised in relation to the proposed design of the development. The issues raised in relation to the proposal included:

- Zoning and permissibility,
- Integration of land uses and their interrelationship across the two sites;
- Ecological issues- removal of EEC vegetation and offsets, water quality impacts, tree management
- Flooding and stormwater
- Landscape provision and setback to the road frontages;
- Odour impacts –including mitigation measures
- Urban and Architectural Design of buildings (height and scale)
- RTA and vehicular access to the site as well as Access and traffic design issues – loading/servicing/maneuvering, pedestrian facilities, sight distances and safety, emergency vehicle access
- Acoustic report to address noise impacts
- Fire safety and BCA compliance
- Native Vegetation Act 2003 and CMA approval
- Information regarding energy efficient measures, gross floor areas,
- Waste management/servicing

Amended plans and information were recently submitted for assessment, which, in conjunction with the imposition of specified conditions, are considered to address the issues raised. This included consideration of legal advice regarding the characterisation of the overall land use under WLEP 1995 and a odour study is being undertaken by Council to ascertain the potential odour impacts of existing Sewerage Treatment Plant on the proposal. The advice recommended in order to ensure that all components of the overall development could be permissible uses within the specific zones upon which they are to be located, that the development be considered as two separate development applications. This information provided by both of these has been considered in finalising this assessment.

VARIATIONS TO POLICIES

Clause	Parking provision
Standard	3 – Requirements for land uses
DCP	Chapter 61 - Carparking
Departure basis	61% at peak time (weekdays) 44% at weekend tournaments

PERMISSIBILITY

The subject site is part zoned 4(b) Light Industrial, and part 5(a) Special Uses - Sewerage Buffer under the WLEP 1991.

Clause 10 of the LEP requires that *Council must not grant consent to the carrying out of a development...unless, in the opinion of the Council, the proposed development is compatible with the objectives of the zone within which the development is proposed to be carried out.*

The objectives of the 4(b) zone are:

- (a) to provide opportunities for the development of a wide range of industrial, service and storage activities which do not have a materially detrimental effect on the amenity of adjoining residential areas, and*
- (b) to restrict commercial, retail or other development except where it is ancillary to the use of land within this zone for light industrial, service and storage purposes, and*
- (c) to enable the Council to provide more detailed guidelines about industrial development in a development control plan.*

The objectives of the 5(a) zone are:

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

The development seeks approval for an entertainment facility for the Central Coast Mariner's Football Club comprising the existing club buildings, museum, tournament field and grandstand for 2000 spectators, futsal courts and other recreation areas. The use also includes a number of ancillary and related uses on the site comprising Mariner's accommodation, Mariners related retail outlet, Mariner's administration, sport and well being related medical facilities, function and restaurant facilities. The facility will function as the main training and support base for the Mariner's Football Club. Concern was initially raised regarding the permissibility and characterisation of the overall land use on the site under WLEP 1995 and in this regard, a legal opinion was obtained defining the proposal as an entertainment facility. It is noted that entertainment facilities are permissible uses within both the 5(a) and 4(b) zonings of the site.

All of the uses on the site have an integral relationship with the Mariner's Football Club and comprise in combination football related entertainment facilities. These uses are not stand alone activities carried out in isolation from the main overarching use as an entertainment facility but are integral to it in their identity and functioning. Therefore, the uses are not to be viewed in isolation but are all inter-related and a condition to the effect will be included in the granting of any consent.

Council should note that a request for an amendment to WLEP 1991 was received by Council on 12 October 2009 for the rezoning of the subject land. The request seeks an amendment to Clause 52 (Development for Certain Additional Purposes) and Schedule 2 of WLEP 1991 to permit an "integrated sports and recreation facility, incorporating playing fields, futsal courts, administration buildings, health centre, function centre, licensed club, commercial premises, motel, medical centre, ancillary amenities and associated car parking." This rezoning will provide greater flexibility for consideration of compatible future land uses on the site.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 71 – Coastal Policy
- Wyong Local Environmental Plan 1991

- Wyong Shire Development Control Plan 2005
 - Chapter 14 - Tree Management
 - Chapter 50 - Advertising signs
 - Chapter 61 - Carparking
 - Chapter 67 - Engineering Requirements for Developments
 - Chapter 69 - Controls for Site Waste Management
 - Chapter 70 - Notification of Development Proposals
 - Chapter 80 - Tuggerah Precinct
 - Chapter 99 – Building Lines
 - Chapter 112 – Public Art
- Landscape Policy and Guidelines
- Waste Management Guidelines
- Planning for Bushfire Protection 2006
- Section 94 Contributions
- Wyong/Tuggerah Planning Strategy

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles. This is further outlined under the report discussion on the likely impacts of the development.

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

Climate Change

The potential impacts of climate change on the proposed development have been considered as part of the assessment of the application. This assessment has included consideration of such matters as potential rise in sea level, potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, and flood, as well as how the proposed development may cope / combat / withstand these potential impacts. It is noted that the development is partly flood affected and the extent of this flood affectation may worsen under climate change scenarios.

The proposal includes the removal of some existing vegetation on the site including vegetation identified as EEC. The applicant will be required to compensate for the areas of vegetation loss on Council owned land through a vegetation management plan (VMP) and positive covenant. Accordingly, a condition will be included on any consent issued for the development. It is also noted that the development incorporates sustainable design principles and resource efficient measures within each of the buildings, rainwater tanks for reuse on the fields, and adoption of bushfire protection measures considerations in the design. In addition, a condition is to be included requiring that the applicant prepare an evacuation management plan (EMP) for the development which is to include consideration of climate change impacts.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):**State Environmental Planning Policy (SEPP) (Infrastructure) 2007**

The development has a frontage to Wyong Road which is identified as a classified road. Clause 101 of SEPP (Infrastructure) 2007 requires that prior to granting consent to development with a frontage to a classified road, that Council be satisfied as to a number of aspects of the proposal. Under subclause (2) these aspects are identified as:

- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The original plans lodged for the proposal included direct access for motor vehicles at Wyong Road via construction of a fifth leg to the existing roundabout. The application was referred to the NSW RTA who raised significant concerns and would not support the proposed arrangement. The amended proposal does not include direct access for motor vehicles via Wyong Road. The amended plans include access being limited to similar location as the existing site access along Bryant Drive with additional access to Ibis Road being provided via a proposed right of way across the adjoining site located to the south.

Clause 104 and Schedule 3 of the SEPP also apply to the development as (under Column 1) the proposal needs the following threshold; a commercial premises 10,000m² or more in area and includes area for ancillary parking accommodation for 200 or more motor vehicles. In accordance with this Clause, the application was referred to the RTA for comment. The requirements of the RTA have been addressed as conditions of consent.

State Environmental Planning Policy (SEPP) 71 – Coastal Policy

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

Wyong Local Environmental Plan 1991 (WLEP 1991)Clause 10 - Zoning

The subject site is zoned part 4(b) Light Industrial, and part 5(a) Special Uses - Sewerage Buffer under the WLEP 1991 and the development is considered to be compatible with the zone objectives and is consistent with Clause 10.

Clause 15 - Development on land Containing Acid Sulphate Soils

The site is identified as Class 4 on the Acid Sulphate Soils Planning Map. Under Clause 15(4) of the WLEP, a preliminary acid sulphate soils assessment report is required to be undertaken in accordance with the *Acid Sulphate Soils Assessment Guidelines* for any works *beyond two metres below the natural ground surface* or works *by which the water table is likely to be lowered to any point beyond two metres below the natural ground surface*.

The proposal includes filling of the site and does not include any significant below ground building works other than those necessary for footings or drainage related works (ie. rainwater tanks). Conditions will be included requiring the applicant to prepare and submit an acid sulphate soils assessment report prior to issue of a Construction Certificate and that any recommendations of that report be adopted as part of the development prior to commencement and during works.

Clause 29 - Services

Water

The proposal can be serviced for water from the existing water main and two points of connection to water supply are required for this development to ensure security of supply. The applicant has indicated that Council's potable water supply will not be used for irrigation purposes. Water harvesting and reuse in relation to irrigation demands has not been justified within the application therefore conditions are to be included within any development consent granted. On this basis arrangements are considered satisfactory for the provision of water supply.

Sewer

The site is currently serviced for sewer via the existing on-site private sewage pumping station discharging to the Sewerage Pump Station. Plans submitted for servicing the development for sewer, propose a gravity system to drain to the existing Sewerage Pump Station. This option would require significant vegetation removal, and would not be supported on ecological grounds. Accordingly, to service the development alternatives are to be investigated by the applicant under the servicing arrangements for the development.

Clause 23 - Flood Prone Lands

The site is affected by the 1% AEP conditions are to be imposed to resolve the outstanding flooding and Water Sensitive Urban Design related issues raised in respect of the proposal. These conditions relate to water usage, water quality, the issues with stormwater drainage system and the lack of provision for overland flow on the site. Relevant conditions of consent have been included that address the potential impacts associated with this matter including the requirement for an evacuation management plan which is to include consideration of climate change impacts.

Wyong Shire Development Control Plan (DCP)2005

DCP Chapter 14 – Tree management

Wyong DCP Chapter 14 identifies Swamp Mahogany *Eucalyptus robusta* and Blackbutt *Eucalyptus pilularis* as keystone species and recommends the retention of these two species in the Shire. It is noted that the proposal includes the removal of both these species of trees from the site. The *Flora and Fauna Impact Assessment* estimates that the proposal is likely to require the removal of 98 Swamp Mahogany's and recommends that these be replaced at a ratio of 2:1.

However, the Landscape Site Plan indicates a quantity of 10 (75L) Swamp Mahogany's will be planted on the site. Additional area for compensatory planting is therefore necessary and this will be addressed under the compensation strategy as part of the Council resolution for this report.

The proposal has been reviewed and it is noted that due to the existence of remnant vegetation communities within the proposed development, species within these communities are to be incorporated into the development. Species that are to be included into the development within the landscape plan include:

- Eucalyptus pilularis (Blackbutt)
- Angophora floribunda (Rough Barked Apple Gum)
- Angophora costata (Sydney Red Gum)
- Eucalyptus tereticornis (Forest Red Gum)

It is noted that the Landscape Site Plan does not include Blackbutt *Eucalyptus pilularis* species in the planting list. Additional area for compensatory planting or regeneration is therefore necessary. Conditions have been included requiring the adoption of tree protection measures and requiring compensatory planting to offset the removal of trees under the proposal.

DCP Chapter 61 - Carparking

The proposed development generates parking at the following rates under Chapter 61 of the DCP:

- Registered clubs, hotels requirements at a rate of 1 space per 5m² licensed floor area (bar, lounge) plus 15 spaces per 100m² gross floor area of dining area plus 1 space per 15m² of auditorium gross floor area.
- Restaurants, reception establishments at a rate of 15 spaces per 100m² gross floor area or 1 space per 3 seats, which ever is the lesser.
- Motels, tourist accommodation at a rate of 1 space per unit, plus one space for the manager, plus 1 space per 2 employees.
- Recreational uses at a rate of 3 spaces per court, 30 spaces for the first green, 7 spaces per 100m² gross floor area.
- Commercial premises at a rate of 1 space per 30m² gross floor area

The applicant prepared a traffic report including calculations and justifications for parking generation for the various elements of the development. The parking rates used for the calculations include consideration of rates under DCP Chapter 61 and alternative estimates where no relevant calculation under the DCP is applicable. The parking needs have also been calculated based on the peak demand times. This is because the demand is staggered due to the variation of related uses on the site that do not all operate concurrently. The applicant's traffic report calculated the peak daily parking demand for the development (except operation of the tournament field) as outlined in the table below.

Parking	<u>M-F Peak 4 pm*</u>	<u>M-F Peak 6 pm*</u>	<u>Weekend peak 7pm*</u>	<u>DCP Ch.61 M-F/Weekend</u>
Refurbished Club	27 (survey)	37 (survey)	109	109
Administration	195 (90%)	22 (10%)	0	217 (M-F only)
Health Centre	183	23	0	229 (M-F only)
Function Centre	26	91	130	130
Futsal Courts	17	39	56	56
Tournament field (training)	10	23	0	33 (M-F only)
<i>Tournament field (game)</i>	0	0	200	<i>200(weekend only)</i>
Accommodation/pool /gym	99	99	99	124
TOTAL	557	334	394 (no games) 594 (games)	898 (M-F) 619 (weekend)

*Traffic Assessment report

The proposal includes provision of 348 parking spaces including overflow parking on the training field for approximately 55 cars. This would be a variation under Council's DCP Chapter 61 of 61% at peak time and 44% at weekend tournaments.

Using only DCP Chapter 61 as the basis for determining the parking demand for the development is not the most appropriate as it does not take into account the multiple uses operating on the site and the relationships of these uses to each other with varying peaks through out the day and across the week.

Consideration needs to be given to the unique nature of the development. DCP Chapter 61 requires consideration of each of the land uses in isolation from each other, whereas, the core nature of this development is in the relationship that all uses on the site have with each other in combination to form an entertainment facility for the Mariner's Football Club. Each of the uses are to remain related to, and integrated with, the functions and activities of the Mariner's entertainment facility. The calculation of parking therefore cannot be considered in isolation for each use but as an overall development in combination. It was on this basis that the application prepared the traffic and parking study and has proposed a more suitable means for measuring parking demand on the site including the integrated nature of uses on the site (ie. multi purposes trips) and varying times of operation for each use with the peak operation of some of the uses being concurrent and other not.

Variations to Council's DCP

On this basis the parking variation to DCP Chapter 61 would be in the order of up to 37% at the 4:00pm peak and up to 41% variation on the weekends. It is further noted that the development on the adjoining site to the south includes additional parking for 249 vehicles which would be made available for overflow parking for the entertainment facilities on the site due to the relationship of all the land uses to the Mariner's Football Club activities.

When the additional overflow parking on the adjoining site is considered the total available parking increases to 556 spaces and the extent of DCP variation is significantly reduced. Compliance with the estimated parking demand for the 6:00pm weekday peak is achieved with the proposal providing an excess of the peak estimated demand for this period. The extent of variation based on the traffic report estimates is significantly reduced with a shortfall of only 1 space at the 4:00pm weekday peak. During the weekend peaks on non tournament days compliance is achieved as excess parking is provided, however, on tournament days, there remains a significantly reduced shortfall of around 6% (ie 38 spaces). Development Application 1114/2009 that contains the parking on the adjoining site to the south is also reported to Council on this business paper.

Variation to Actual Demand

Based on the figures provided in the applicant's traffic report for the likely parking demand on the site, is more likely to be in the order of:

- between 557 – 334 spaces Monday to Friday at the peak times of 4:00pm and 6:00pm respectively (rather than 898 spaces that the DCP identifies) and,
- up to a peak of 594 spaces at the weekend on those days when tournament games are played or 394 when no tournaments games are played.

When the parking potential on the adjoining development application is included in the assessment and the methodology for determining demand proposed by the applicant is accepted, the variation to parking sought is 1 space only for the weekday peaks and 38 spaces for weekend peaks. Additional overflow parking is also available on the adjoining site to the south as informal parking on the training field which is to be designed to cater for the dual purpose. The variation sought to parking under the proposal is therefore sought on the grounds that the extent of variation is minimal, is limited to only peak times and will not result in any significant on street parking impact to surrounding streets.

Further, the ability of the training field to cater for informal parking at major weekend events removes any unmet parking demand at that time. It can therefore be argued that compliance with the likely estimated parking demand for the development is achieved on the site with the exception of one space during the weekday peak.

As an alternative to private car-based transport it is noted that the development also includes access to bus, train and taxi modes of transport. The site is positioned within 800 metres of Tuggerah Station and bus parking and taxi servicing has been included as part of the proposal. Additionally, conditions have been included to ensure that adequate bicycle parking and related facilities are provided as part of the development.

DCP Chapter 80 - Tuggerah Precinct

Wyong DCP Chapter 80 – Tuggerah Precinct applies to the development. Under DCP Chapter 80, the objectives and controls contained within Parts B and C (Area C- Lake Road) apply to the development. The development is consistent with the DCP which aims to encourage high quality urban design and the development of a multi-functional Regional Centre.

Part B – The Controls

Part B contains the general DCP controls applying to the development of the site. The development is consistent with the relevant controls under this section in relation to:

- the architectural merit and positive aesthetic design of the development,

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- satisfactory soil and stormwater management for the development,
- maintenance of environmental values,
- positive contribution to the visual presentation and aesthetic quality of the public domain, and
- the visual impact of the development and landscape treatment to Wyong Road with a landscaped setback in excess of the minimum requirements being provided.

Landscaping and Setbacks

In accordance with DCP Chapter 80 (Clauses 5 and 6) the development complies with the following requirements:

- The required Category 3 Landscape Plan has been provided for the area on the site facing Wyong Road.
- The required minimum 15 metre landscaped setback to be provided to Wyong Road. The proposal provides up to 38 metres landscaping for the portion of the site frontage adjacent to the roundabout on Wyong Road.
- No parking or storage has been provided within the setback area to Wyong Road.
- High quality landscaping has been provided in the setback to Wyong Road.
- The minimum 10 metre setback to Bryant Drive has been provided and including a required setback of 5 metres of landscaping.

Part C – Area Plans

The site falls within Area C – Lake Road (specifically Area C1 – Recreation) under DCP Chapter 80. The development is consistent with the vision statement and area objectives. The development complies with the maximum floor space ratio of 0.8:1 having an FSR of 0.4:1. The proposal complies with the maximum site coverage (building only) of 50% having a site coverage of 15%.

DCP Chapter 50 - Advertising signs

There has been no specific signage included under the proposal, however, there is some indicative signage on the buildings included. A condition will be included in relation to future signage for the proposal.

DCP Chapter 67 - Engineering Requirements for Developments

Stormwater plans and a sediment erosion control plan have been submitted for the development. The imposition of specified conditions will be required to address the outstanding matters.

DCP Chapter 69 - Controls for Site Waste Management

In accordance with the requirements of DCP Chapter 69, the applicant prepared a waste management plan for the development that includes details for the recycling and disposal of materials from the site during the demolition, site works and construction and the ongoing use phases of the development. Waste storage facilities will be provided throughout the development within each building and a condition is included to ensure that the design and construction of these waste facilities is in accordance with DCP Chapter 69. The generation of waste by this proposal is anticipated to be acceptable provided that a licensed contractor is engaged to collect, handle and transport the waste to a licensed facility.

DCP Chapter 99 – Building Lines

Under Chapter 99 of the DCP, the building lines within industrially zoned land are 15 metres from Wyong Road and 10 metres from Bryant Drive and the development complies with these setbacks. It is noted that side and rear setbacks are contained within DCP Chapter 80 for the site. The building lines within 5(a) Special Use zones are determined on merit, having regard to the character and placement of adjoining development. The proposed front setback for the new buildings is appropriate for the varied building scales and consistent with the desired future character for the Tuggerah area and includes the provision of landscaping to soften the appearance of the building.

DCP Chapter 112 - Public Art

Wyong DCP Chapter 112 – Public Art applies to the development as the proposal is commercial in nature and exceeds the value of \$5 million for the estimated cost of the works. A condition is proposed to be included on the consent that requires that applicant to comply with the DCP and provide public artwork on the site with a minimum cost of 1% of the total cost of development.

Wyong/Tuggerah Planning Strategy

The Wyong Tuggerah Planning Strategy identifies a regional open space and recreation corridor which includes the subject site. The strategy identifies opportunities existing to improve pedestrian/cycling linkages between the recreational facilities within the open space corridor that extends along the eastern side of the Wyong/Tuggerah area.

It is noted that the strategy also identifies the investigation of the possibility of rezoning the eastern side of Bryant Drive to provide land for employment generating purposes. In this regard, the proposal will generate 577 jobs and is therefore consistent with this future aim for the site under the strategy.

Landscape Policy and Guidelines

Council's Landscape Policy and Guidelines requires the landscape design for the development to be done as a Category 3 development that requires the expertise of an approved Landscape consultant. A landscape plan accompanied the application which complies with the requirements of the Landscape Policy. A condition will be included to ensure that the landscape works are constructed and maintained in accordance with Council's Policy including the engagement of an approved landscape consultant and contractor to undertake the work.

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

Access, transport and traffic management measures.

A traffic assessment report was prepared for the parking and traffic generation of the proposal. The report estimated the total peak hour vehicle trips of the development based on the likely traffic generated using the RTA guide to traffic generating development for the various uses proposed on the site at the different peaks. The report included modelling of traffic along Bryant Drive to ascertain the impact of access to the site via Bryant Drive.

The applicant's traffic report outlined two stages in the provision of vehicular access to the site. The first arrangement would include the permanent access via Bryant Drive in the north and the access via Ibis Road using a left in and left out facility in the south.

This would include provision of a Type C intersection in Bryant Drive (protected right turn from Bryant Drive) and modified median/splitter islands and an upgrade of Ibis Road/Wyong Road intersection to include acceleration and deceleration lanes. The second stage would introduce the installation of traffic control signals at the intersection of Wyong Road and Ibis Road to provide a controlled right turn lane into Ibis Road and out of Ibis Road. The RTA had agreed to this staging for the provision of satisfactory access for the development. The RTA would require the commencement of the second stage depending on the level of service provided at the subject intersection. Internal circulation has been demonstrated to be generally satisfactory for all anticipated vehicles. The report concluded that the proposed development would not have an adverse impact on the public road network and that the provisions for access, parking and servicing will manage the demands generated by the development.

Any effect on the flora and fauna.

The Flora and Fauna Assessment submitted for the proposal identified two vegetation communities on the site including Swamp Sclerophyll Forest (SSF) and Blackbutt Forest (BbF). The Swamp Sclerophyll Forest is listed as an EEC.

Vegetation Communities

There is evidence that the site was predominantly cleared, therefore the vegetation present today is predominantly regrowth and as a result only contains only two hollow bearing trees. The applicant's ecological consultant has identified that the total proposal (DA/612/2009, DA/1114/2009, DA/1135/2009) will require the removal of approximately 0.84 hectares of the SSF and 0.69 hectares of the BbF around the edges of the new fields and car parks. An assessment of significance was completed for the loss of SSF EEC, which concluded that a significant impact is not likely to occur upon the EEC therefore a Species Impact Statement is not required. The assessment made several recommendations to mitigate the direct impacts on the EEC, including implementation of a Vegetation Management Plan (VMP) to control weeds, compensatory replanting of Swamp Mahoganies, landscape plantings of endemic species and plants sourced from local provenance stock. Council supports these recommendations and has included them in the proposed consent conditions.

The warm up area to the north of the tournament field encroaches into the adjoining Swamp Sclerophyll Floodplain Forest. The forest at this location is very dense and in relatively good condition, supporting many juvenile Swamp Mahogany's and few weeds. To reduce the impacts to this EEC it is recommended that the approved plans be amended in red to limit the warm up area to the existing cleared area. To further mitigate the impact of clearing associated with the proposed development it is recommended that that prior to any clearing works commencing on site, all reasonable measures be undertaken to use any surplus vegetation including donation to community groups and distribution to the local community.

A separate application (DA/1135/2009) has been lodged with Council and is currently under assessment. This application is for the construction of three additional fields and associated car parking and amenities to the north-east of the subject site. These additional fields are separated from the main complex by the EEC. There is a risk that pedestrians may establish a track between the two facilities, resulting in further damage to the EEC, edge effects and potentially a loss of connectivity due to fragmentation. There is also a risk that mowing of the training and tournament field will encroach into the EEC over time unless the boundary is clearly delineated. The site plan indicates that security fencing will be erected around the perimeter of the playing field. To prevent long-term degradation of the EEC, it is recommended that a condition of consent specify that fencing must be permanent 1.8 metre man proof fencing around the perimeter of the site and signs must be erected on the fence advertising that it is an environmentally sensitive area.

The *Landscape Site Plan* indicates that turf will be laid up to the eastern boundary of the site that adjoins the remnant native vegetation. No buffer zone has been provided therefore there is a risk that turf species will invade adjoining native vegetation. A swale is proposed to run along the eastern boundary of the playing fields. It is therefore appropriate that the eastern batter of the swale extending to the property boundary be planted with groundcover species endemic to the site in order to provide a buffer zone and this has been included as a condition requiring amendments to the Stormwater Management Plan.

Threatened Flora and Fauna Species

The *Flora and Fauna Impact Assessment* identified that the fragment of remnant floodplain forest occurring as an uninterrupted band through the centre of the Mariner's sporting complex masterplan provides potential habitat for two threatened flora species and 17 threatened fauna species. Although the fragment has limited connectivity to larger areas of vegetation, it may act as a valuable stepping stone for mobile species migrating through the area, such as birds and bats. Seven flora species of local significance were recorded on the site. One mammal (Swamp Wallaby), seven microbats (including two threatened species - Little Bentwing Bat and Eastern Free tail Bat), 35 birds, one reptile and four frog species were recorded on the site. The threatened flora species, *Melaleuca biconvexa* was also recorded to the north of the area to which this application applies.

Potential impacts to threatened species were considered in the assessment, including direct loss of individuals of *M. biconvexa*, loss of habitat, habitat fragmentation and edge effects (such as lighting, weed invasion) and altered hydrological regime and water quality. The proposal has been designed such that the loss of vegetation is minimised and the connectivity within the fragment is maintained. No hollow-bearing trees will be removed as part of this development application. Assessments of significance were completed for 19 threatened species and concluded that a significant impact is not likely to occur upon any of the threatened species therefore a Species Impact Statement is not required. The assessment made several recommendations to mitigate the direct impacts on the fauna habitat, as previously detailed. These are proposed to be included in the conditions.

Compensation for Vegetation Clearing

The proposal requires the clearing of native vegetation and to compensate for the loss of vegetation, minimise edge effects and enhance the buffer around the *M. biconvexa* population, the *Flora and Fauna Impact Assessment* recommends that remaining native vegetation surrounding the site be governed by a Vegetation Management Plan (VMP). A majority of the land surrounding the site is owned by Council and is zoned for the purpose of a buffer zone for the Tuggerah Sewerage Treatment Plant (STP).

Therefore restoration of these lands for biodiversity conservation is consistent with the land use zoning. Based on the DECC biobanking assessment methodology and the principle of 'improve or maintain' the consulting Ecologist was of the opinion that a ratio of 10:1 (restored: cleared) was appropriate for the SSF EEC and 4:1 for the BbF Forest. The BbF ratio was lower than that for the SSF, as it is not an EEC. The compensation ratio of 4:1 was based on that recommended in Council's DCP Chapter 13 – Interim Conservation Areas.

Sufficient areas for restoration could not be secured immediately surrounding the site, therefore additional suitable land was required in order to compensate for the loss. The *draft Wyong Conservation Strategy* (Wyong Shire Council, 2002) identified a wildlife corridor along the eastern boundary of the Sewerage Treatment Plant within the buffer zone. Two land parcels owned by Council at the southern end of the corridor (*identified as Lot 3A in DP. 367658 and Lot 3 in DP. 650650 known as 8 Titania Avenue Tuggerah*) are currently cleared and are critical for the effectiveness of the corridor.

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These land parcels have an elevation of (4-6 metres AHD) and Wyong-alluvial soil landscape grading to the Erina soil landscape in the south-east corner. It is therefore most likely that the original vegetation on the site would have been primarily SSF grading to BBF on the higher elevations. The site is therefore suitable to support similar vegetation to that proposed to be cleared by the development. The site is also suitable for revegetation as this would enhance the buffer around the STP, improving the local amenity for adjoining residents. Council, as the asset owner supports the implementation of a VMP on the lands identified. The applicant has stated that they agree to the VMP applying to the land shown in Figure 1 and that they will fund the preparation and implementation of the restoration plan on these lands.



Figure 1- Land parcels to which the Vegetation Management Plan for the Mariner's Football Club must apply.

A Council resolution is required to formally approve such works on Council land. The following conditions are recommended on the development consent.

- The applicant enter into a licence or lease with Council for the rehabilitation of those lands, as advised by Council's Services Coordinator Property.
- The VMP be submitted to Council and approved by Council's Ecologist and
- To ensure conservation of the land in perpetuity that a 'restriction to user' pursuant to section 88B of the *Conveyancing Act 1919* be created for those lands to which the VMP applies prior to issue of any construction certificate.

Stormwater Management and species

The species composition (number and relative abundance) of the SSF EEC is dependent on the natural hydrological regime of a site (NSW Scientific Committee, 2004). The proposal has the potential to increase the total volume of stormwater, the peak flows and the duration of stormwater discharged from the site therefore could impact on the SSF. Changes in water quality, particularly nutrients and sediment, have been identified as a threat to the SSF EEC. The proposal also has the potential to degrade stormwater quality, in particular concentrations of nutrients, pesticides and hydrocarbons. The *Flora and Fauna Assessment* identified that strict nutrient control is required and that water sensitive urban design principles would be employed for the development and maintenance of the fields. For these reasons, it is strongly recommended that the proposal adopt all practical measures to maximise water quality and manage quantity of runoff.

In particular, a conditions is to be included requiring that the fields be constructed with sub-soil drainage to enable capture and reuse of irrigation water, minimising water use, stormwater quantity and nutrient export loading from the playing fields into the SSF.

Conditions are included detailing the required additional information and amendments to the designs to achieve the goal of maintaining the hydrological regime and water quality, so as to minimise the impact on the adjacent flora and fauna.

Sewer main and vegetation impacts

The *Concept Stormwater Management Plan-Sewer Main Site Plan* proposes to lay a new sewer main to the north of the tournament field. The proposed route traverses through approximately 160 metres of SSF. Using traditional trenching construction methods, this would require the clearing of a 10 metre easement. The additional clearing of SSF for construction of the sewer was not assessed in the *Flora and Fauna Impact Assessment*. There are alternative options for sewer servicing for the site, as well as construction methods, such as directional drilling, that will eliminate or greatly minimise the area of vegetation required to be cleared. A condition shall be included on the Section 306 issued for under the Water Management Act for the development.

Energy and resource efficiency.

The applicant submitted a statement with the proposal outlining the energy and water efficient measures for the proposal. These included:

- Maximise solar access and natural lighting in the design by maximising the number of windows in the northern face of the building and minimising glazed areas on the eastern and western walls of the building. Where feasible skylights, clerestory windows and light wells have been included.

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- Measures have been included to maximise natural heating, cooling and ventilation as well as incorporating external shading devices for all west facing windows. All windows are rated to at least 4 heating stars under the Australian Windows Council's Windows Energy Rating System (WERS). Openable windows, grills, etc provided into the building. Appropriate insulation has been included into walls, floors and ceilings (Section J BCA).
- The development incorporates water efficiency measures such as all taps, shower heads and toilet suites in the development are rated to at least 4 stars under the National Water Efficient Labelling and Standards (WELS) Scheme. A site water management plan is to be prepared which is proposed to reduce the reliance of mains water supply by the following:
 - Preparation of an integrated water collection and recycling system for the capture and recycling of rainwater. The system is to be integrated into the mains supply water system and used primarily for dust control, car washing, watering of gardens, flushing of toilets and similar uses.
 - Capturing and reusing grey water used primarily for dust control, water of gardens and flushing of toilets. Grey water will be required to be separated and treated before reuse.
- The development includes energy efficiency measures such as energy efficient hot water systems with an energy rating of at least 4 stars; efficient air conditioning; energy efficient lighting and lighting control systems including the use of compact fluorescent lamps; the use of triphosphor fluorescent instead of halophosphor fluorescent lights; the use of electronic ballast instead of magnetic ballast in fluorescent lights; the use of low voltage tungsten halogen lights instead of tungsten spotlights; the use of solar powered or metal halide or sodium discharge lamps for outside areas (eg. carpark) and the use of solar panel heating for the indoor pool.

Any impact on the conservation of water

The proposal includes underground rainwater tanks for the storage of rainwater for re-use on the playing fields. Conditions have been included in relation to this. No potable water is to be used in irrigation.

Noise and vibration

An acoustic report was prepared and submitted for the proposal which examined the potential noise impacts of the proposal in relation to the residential property located on Ibis Road. The report has been reviewed and it is considered that the proposal will have a negligible impact upon the environment if the actual noise levels are similar to those predicted in the Acoustic Report. To ensure that this occurs, specific conditions are imposed and will need to be adhered to for the proposal. This includes a six months review of the acoustic impacts of the proposal.

Bushfire hazard and integrated development

The site is identified as bushfire prone land and subject to the provisions of Planning for Bushfire Protection (PBP) 2006. The applicant prepared a bushfire hazard assessment report for the site and the development particularly the proposed accommodation. Under Section 100B of the Rural Fires Act 1997, 'hotel, motel or other tourist accommodation' is identified as "special fire protection purposes" requiring issue of a bush fire safety authority by the NSW Rural Fire Service (RFS). The development therefore constitutes integrated development in accordance with Section 91 of the EP&A Act 1979.

The application, along with the submitted bushfire assessment report were referred to the NSW RFS for comment. The RFS issued the bushfire safety authority with specified conditions to be included with any consent.

Disabled access and facilities

An accessible path of travel is to be maintained throughout the development. Accessible parking spaces are to be provided in close proximity to the entries for buildings and facilities. Accessible toilets and other facilities are located within each building. A condition is to be included requiring the development to comply with the requirements of the Disability Discrimination Act (DDA).

Safety, security and crime prevention.

The principles for Crime Prevention Through Environmental Design (CPTED) have been considered under the design of the proposed new development. Adequate lighting and signage and landscaping will be provided throughout the development. Entrapment spaces have been minimised and surveillance opportunities maximised. There will be security and access control measures adopted both internally and externally as part of the development (including CCTV). A condition will be included with the consent outlining additional measures related to Crime Prevention Through Environmental Design (CPTED).

Privacy and overlooking

There is one dwelling house located surrounding the site that is potentially privacy affected as a result of the development. It is noted that there is potential for overlooking from bus and truck traffic using the Right Of Way. The dwelling house is located on Ibis Road and conditions will be included with the consent to ensure that comprehensive landscape screening is to be installed to the boundaries of the residential property adjoining the site to address this issue.

Odour impacts

The site includes land zoned for the purposes of a sewerage buffer for the existing Wyong South Sewage Treatment Plant. A portion of the development will take place within these designated odour buffer zones and within areas identified as a designated odour buffer under an Odour Study Report prepared for the STP in July 2000. It is noted that playing fields on the site (and the existing dwelling at No.10 Ibis Road) are already located within the existing sewerage buffer zone. However, the proposal will significantly intensify the use of the land within the existing buffer zone including the new tournament field, grandstand for 2000 spectators, and ancillary facilities. The potential impacts of this may have cost implications for Council that will require consideration in the determination of the application (ie. STP upgrading works that may be necessary in order to minimize the extent of impact acceptable to future users of the proposal).

Even where the STP remains compliant within the guidelines and industry standards odour may be experienced. It may be appropriate by way of a condition to limit the operation of the fields during periods of higher odour emissions. One of the conclusions of the Odour Study is that the location of the fields and grandstand provide a moderate to high likelihood of future odour complaint, (SKM pg 29), the remaining site has less likelihood. It is not possible to manage the design of the grandstand to limit the perception of odour to the patrons in the grandstand. It is therefore considered appropriate to place a condition on any consent limiting occupation of the grandstand to outside times of high odour generation or maintenance operation at the plant.

Council has recently completed an updated odour assessment in order to ascertain the extent of odour impacts of the sewage treatment plant operations upon surrounding sites, and particularly upon new development located within the buffer areas. In this regard, additional on site measures may be required in order to mitigate the potential odour impacts likely to be experienced by the future users of the development. This updated odour assessment and the likelihood of any upgrade works has been separately reported to Council for consideration.

Any social and economic impact in the locality.

The proposal will result in direct and indirect employment opportunities for the Central Coast and its businesses, suppliers and support services. The proposal will provide beneficial social and economic impacts through the creation of additional employment (577 employees) and in strengthening the sense of community identity for the Central Coast. During the construction period and subsequent operation, the development will provide positive benefits to economic growth for the region.

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

Conditions have been included to ensure that environmental impacts during construction are appropriately managed and mitigated. These conditions include the adoption of sediment and erosion control measures and preparation of a site management plan that includes measures for traffic and pedestrian management, tree protection, noise control, waste storage, dust suppression, and impact monitoring.

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

The design of the proposed development is in an appropriate form, layout and scale that suitably balances the opportunities and constraints of the site. The site is well positioned close to Tuggerah Railway Station and accessible to bus services along Wyong Road. The site has a history of use for sporting and recreational purposes associated with the existing RSL club located on the site. Although the site is bushfire prone and flood affected, these constraints have been considered in the siting and design of the development. One further potential constraint to development on the site is the proximity of the development to the Wyong South Sewage Treatment Works and the new development works and intensified use of areas within the designated sewerage buffer zone. A report has been prepared regarding the potential odour impacts from the Sewage Treatment Works on the development and conditions will be imposed requiring measures to be adopted as part of the development to mitigate odour impacts.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):**Any submission from the public.**

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with three submissions being received from two properties. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the EP& A Act 1979.

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

Doc. No	Summary of Issues	Response
D01984140	<ul style="list-style-type: none"> • Existing use rights as dwelling house on adjoining property but residential amenity significantly compromised by proposal. • Acoustic impacts 	<ul style="list-style-type: none"> - The applicant's acoustic report identified measures to mitigate the noise impacts of the proposal on the adjoining dwelling house. This included erection of an acoustic screen along the northern and western boundaries of the affected residential land. - Additional conditions have been included requiring a review of the noise impacts of the proposal 6 months after occupation of the site.
D01985284	<ul style="list-style-type: none"> • Significant traffic impacts • Unsafe for traffic to exit site at Ibis Road • Noise and privacy impacts to adjoining residence • Unreasonable light spill • Flora and Fauna – frogs, significant trees will be impacted • Concern regarding zoning of the property not suited to uses proposed. 	<ul style="list-style-type: none"> - A traffic report accompanied the proposal which examined the traffic generation resulting from the proposal and concluded that there would be no adverse outcome on the safe operation of the road network. - The applicant is required to undertake additional upgrading measures to improve safety at the Ibis Road and Wyong Road intersection. Additional measures will be adopted to mitigate noise impacts resulting from the proposal. - A condition has been included to address privacy impacts. - A condition has been included to address the impact of light spill on residential amenity. - Council's Ecologist reviewed the proposal and has included conditions to compensate for vegetation loss under the proposal. - The proposed use is permissible within the 4(b) and 5(a) zonings of the site.
D01996351	<ul style="list-style-type: none"> • Requested these conditions be included to address intensity of use, hours of operation and various nature of users: <ul style="list-style-type: none"> - Adequate 24 hour security measures are to be implemented to protect the surround private and public domain, including static and mobile security and installation of CCTV monitoring to the entire perimeter of the site which monitors adjoining properties, streets and public places. - All outdoor playing areas are to be well illuminated to ensure public safety and security. - All parking generated by the proposed by the development is to be contained wholly on site and appropriate traffic management measures are to be implemented during major events to ensure parking does not occur on street or surrounding properties. 	<p>Conditions have been imposed regarding:</p> <ul style="list-style-type: none"> - CPTED considerations to minimise the opportunities for criminal behaviour. The applicant advised that a CCTV system is to be installed to the interior and exterior of the facility. - Adequate and safe levels of lighting throughout the development - RTA imposed a requirement for the applicant to prepare a traffic management plan for major events. The RTA also imposed a condition that no reliance is to be given to on street parking along Bryant Road.

Any submission from public authorities.

NSW Roads and Traffic Authority

In accordance with Clause 104 (and Schedule 3) of SEPP (Infrastructure) 2007, the application was referred to the NSW RTA for comment. The RTA raised significant concern regarding the initial proposal for vehicular access to the site via a fifth leg extending from the existing adjacent roundabout located on Wyong Road. The RTA would not support the proposal and the applicant amended the access to include a similar configuration to the existing access on the site (but requiring traffic upgrading works) and access using Ibis Road via a Right Of Way on the adjoining site. The RTA advised of no objection to the amended proposal and access arrangements subject to specified conditions being incorporated in the consent for the development.

NSW Rural Fire Service (RFS)

The application was referred to the NSW RFS under the integrated development provisions of the EP&A Act 1979 due to the site being identified as bushfire prone and the 132 accommodation rooms proposed. The RFS have issued the bushfire safety authority as required under section 100B of the 'Rural Fires Act 1997' subject to the inclusion of conditions. These conditions are to be included with any consent issued for the development on the site.

NSW Department of Water and Energy

The application was referred through to the NSW Department of Water and Energy (DWE) for clarification and comment on the proposal in relation to the proposal and an existing channel through the site. DWE confirmed that a Controlled Activity Approval under the provisions of the Water Management Act 2000 is not required for the proposed development.

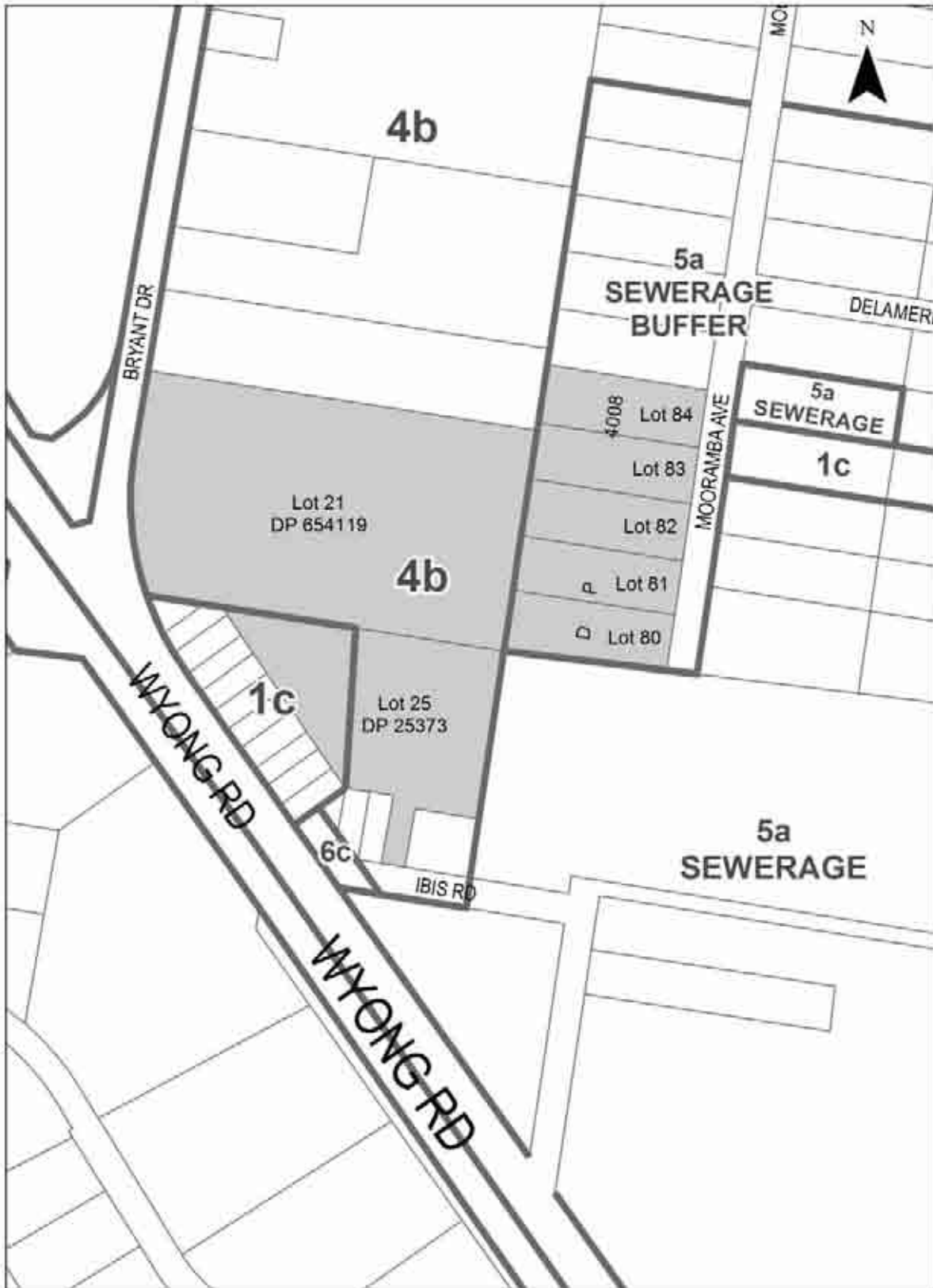
THE PUBLIC INTEREST (s79C(1)(e)):

The development will provide additional sporting and recreational facilities for the Central Coast that will result in additional direct and indirect employment opportunities and will have positive implications for the growth of the Central Coast. The proposal is considered beneficial to the local and community interest and identity.

OTHER MATTERS FOR CONSIDERATION

Section 94 Plans

The contribution payable for the development is based on Council's S94 Plan No.1 – 'Wyong District and Part Rural West District'. It is noted that only the motel accommodation of the development generated a contribution under the Roads category of the plan.



CONCLUSION

The site context is appropriate for the design and form of development proposed. The development contains a number of varied uses integrally related to the Mariner's Football Club. These uses operate as part of the broader identity of the development as an entertainment facility for the Mariner's Football Club. Although significant variation is sought to Council's DCP Chapter 61 for parking, a more accurate measure of the parking demand for the development has been provided in the traffic and parking assessment that accompanied the application. This assessment more accurately reflected the combination of the uses on the site and how their inter relationship influences the parking demand of uses more typically considered in isolation.

On this basis, the variation is considered reasonable in the context of the site and the nature of the development with its positive community and economic benefits. The site is well serviced by public transport due to its proximity to Tuggerah Railway Station and bus services along Wyong Road. The development has been designed for the provision of buses, taxi's and bicycles as viable alternative transport modes. The proposal is suitably designed of a high architectural and landscape quality to ensure that the building will positively contribute to the streetscape and general theme of the precinct. Subject to satisfactory resolution of the potential odour impacts associated with the location of the proposal in close proximity to the Wyong South Sewerage Treatment Plan, the development is recommended for approval subject to conditions.

ATTACHMENTS

- | | | | |
|---|---------------------|-----------|-----------|
| 1 | Table of Compliance | | D02082651 |
| 2 | Development Plans | Enclosure | D02090439 |

Table of Compliance

Applicant	Mariners FC Unit Trust
Owners	Wyong RSL Sub-branch Club Limited
Application No	DA/612/2009
Description of Land	1 Bryant Drive, Tuggerah
Proposed Development	Entertainment facility and ancillary uses, parking and landscaping

	Proposed	Required	Compliance
Site Area	57, 834.5 m ²	-	-
FSR DCP Chapter 80	0.4:1	0.8:1 (maximum)	Yes
Gross Floor Area - Building 1 - Building 2 (existing) - Building 3 - Building 4 - Building 5 TOTAL DCP Chapter 80	23,356m ² 8888m ² 1499m ² 11153m ² 1621m ² 194m ² 23,356m ²	46,267m ² (maximum)	Yes
Site Coverage DCP Chapters 80	15%	50% (maximum)	Yes
Building Setbacks - Front (Wyong Rd) - Front (Bryant Dr) Landscaped frontage (min) Side & Rear DCP Chapter 80	38.8m 23.8m 5m (min) 3.6m (min)	15m 10 5m BCA/Nil if < 2.5m	Yes Yes Yes Yes
Parking DCP Chapter 61 Applicant's report*	348 (site alone) 556 (with adjoining site) 556 plus training field as overflow	898 weekdays (DCP) 619 weekends (DCP) 557 weekdays* 594 weekends*	No No - -
Height DCP Chapter 80	Complies with the DCP chapter 80 objectives. It does not dominate skyline and has high quality appearance and minimal visual impact to Wyong Road.	No specific height limit applies but minimal visual impact of height, bulk and scale to Bryant Drive and Wyong Road. Ensure high quality appearance.	Yes
Access	Via ROW to Ibis and via Bryant Drive.	No direct access to Wyong Road	Yes

4.1 Wyong Shire Cultural Centre - DA Design

TRIM REFERENCE: CPA/159128 - D02084647

AUTHOR: SS

SUMMARY

Evaluation and selection of tenders for Contract No. CPA/159128 – Provision of Design Services for Wyong Shire Cultural Centre.

RECOMMENDATION

- 1 That Council accept the tender from Tonkin Zulaikha Greer Architects for the lump sum amount of \$1,080,746 excluding GST.**
- 2 That a contingency of \$108,075 excluding GST (\$118,882 including GST) be approved for this work. This provides an allowance of 10% of the Tender Sum for additional work that may be required under the contract.**
- 3 That the balance of \$799,821 required to fund Option 2 be allocated from Section 94 funds.**

BACKGROUND

Between 2006 and 2008 Council undertook a Feasibility Study, a Business Case and Design Brief for the development of a Cultural Centre focusing on performing arts which would serve Wyong Shire and be located in Wyong township.

The Business Plan identified the purpose of the proposed Wyong Shire Cultural Centre (WSCC) as:

“... to provide the residents of Wyong and surrounding areas with high quality facilities to support the development and presentation of arts and cultural activity, and to enhance the quality of community life through its programs and services The Centre will have a primary focus on support of the performing arts, including dance, drama and music; but it will also facilitate and support the visual arts, film, digital media and other arts and cultural activity.

The Cultural Centre will be a community hub for the township of Wyong – a place for meeting and interaction, a place which enjoys a wide sense of community ownership, and which contributes to the vitality of the town. The Centre will be active day and night. Its staff and volunteers will stimulate and facilitate activity not only in the building, but also throughout the Shire through partnerships with cultural, educational and other organisations.”

Wyong Performing Arts Centre Business Plan, Positive Solutions, 2007.

Following a report on the peer reviewed Business Plan and Design Brief, Council resolved at the 27 May 2009, Ordinary Meeting of Council:

4.1 Wyong Shire Cultural Centre - DA Design (contd)

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

- 1 That Council rescind Points 2 and 5 of its resolution of 26 August 2006 regarding the location of a Performing Arts Centre at River Road and the commencement of a process for the appropriate disposal of the Memorial Hall on a commercial sale.*
- 2 That Council approve the Memorial Hall site and neighbouring property as owned by Council, as the preferred location for the Wyong Shire Cultural Centre.*
- 3 That Council approve the purchase of services by tender in accordance with budget to complete sketch designs and development application for the Wyong Shire Cultural Centre (ie Stage II of the Cultural Centre project). That the design incorporate all potential staging options for the project and the construction value of the initial stage of the project be in order of \$10-\$15m.*
- 4 That Council pursue liaison with Gosford City Council to enable the development of a Central Coast Regional Cultural Strategy during Stage II.*
- 5 That Council adopt amended Option B as the preferred model for a Working Party from the options proposed with the Mayor to Chair and all interested Councillors to participate in the Working Party.*
- 6 That the development of a Central Coast Regional Cultural Strategy be submitted as an agenda item at the next Joint Councils Meeting.*

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

AGAINST: NIL.

The tender sought a suitable consultancy team to undertake the work listed below. The focus of the Request for Tender was to enable the selection of the best qualified tenderer at a competitive price to deliver the specified services, as follows:

- Return Brief: A document that combines the various requirements for each of the spaces onto one page. This document will inform the design for the remainder of the contract.
- Concept Design: Design studies for a number of options showing the layout both of spaces within the building and of the building or buildings on the site. The spaces to be accommodated will be taken from the schedule developed in the Business Plan. This is the masterplan stage and will also show the staging. Planning approval may be sought using the masterplan.
- Sketch Design: The best design solution arising from the concept design stage will be selected and developed. This design will be used for the next stage of the planning approval process.
- Construction Documentation: Following receipt of full planning approval, detailed plans, specifications and schedules for both stages will be prepared. These documents will be used for construction approval and also to call tenders for the general contractor that will construct the Centre. The construction documentation will be prepared as separate packages for each of the two stages to allow the work to be tendered and built at different times as funding becomes available.

- Tender Advice: If funding for the first stage is available, the provision of responses to tenderers' questions regarding the construction documents. If funding is not available, the cost of this component of the work has been identified and will not be expended.

Council will provide cost planning, peer review of theatre design and project management services separately to the design contract.

Process Review

In alignment with Council's tender evaluation process guidelines it was considered appropriate to appoint an external Probity Officer to provide an independent evaluation of the process.

TENDER PROCESS

Tenders were invited by way of public invitation on the e-tendering web site. Advertisements were placed in The Sydney Morning Herald on the 8 September 2009, The Australian on 12 September 2009 and the Central Coast Express Advocate on 9 September 2009. The advertised closing date was 8 October 2009. The closing date was extended to 15 October 2009 to allow tenderers sufficient time to respond to clarifications provided in Addendums 7 and 8 issued on 8 October 2009. The closing date was extended to 19 October 2009 due to an outage on the E tender webpage for a period before the then closing time on 15 October 2009.

The invitation documents called for lump-sum tenders, based on a detailed specification.

Eight addenda were issued during the invitation period as follows:

- Addendum No 1: Issued on 8 September 2009 amended the date of the non-compulsory Pre-tender Meeting, issued additional documentation and responded to a tender query.
- Addendum No 2: Issued on 14 September 2009 provided responses to tender queries.
- Addendum No 3: Issued on 21 September 2009 provided minutes of the non-compulsory Pre-tender Meeting and provided responses to queries raised during the question and answer session at the end of the meeting.
- Addendum No 4: Issued on 24 September 2009 provided responses to tender queries.
- Addendum No 5: Issued on 8 October 2009 issued additional Returnable Schedules and extended the Tender Closing Date to 15 October 2009.
- Addendum No 6: Issued on 15 October 2009 extended the Tender Closing Date to 19 October 2009 due to an outage in the E tender website prior to the close time.
- Addendum No 7: Issued on 15 October 2009 corrected the Tender Close Date on the website.
- Addendum No 8: Issued on 16 October 2009 provided the reason for the extension to the Tender Close Date and waived the requirement for tenderers to acknowledge Addenda No 6, 7 and 8.

Tenders closed at 2:00pm on 19 October 2009.

Options 1 and 2

The Request for Tender was expanded to identify the cost to document both Stage One (Option 1) and, Stage One and Stage Two combined (Option 2 - full Brief) at the same time. Preparing tender documents for both stages at the same time is anticipated to provide significant cost savings to Council rather than documenting Stage Two at a later date.

Stage One is anticipated to include the theatre and supporting spaces and Stage Two will provide all of the remaining facilities scheduled in the Business Plan such as a studio, additional rehearsal space etc. Council's resolution to proceed with the design of a facility for a cost in the range \$10 - \$15M would only provide for a theatre. The Request for Tender has been written around the staged construction of the Centre to accommodate the funding constraints, and to make provision for future additions in the event that additional funding becomes available.

Each Stage will be documented as a stand alone package to enable tenders to be called for construction at separate times to suit Council's resources.

The funding of Option Two is preferred as it would provide Council with documentation of Stages One and Two together for substantially less cost than documenting the two stages separately. This would also ensure the entire project is ready to build and thus position Council to be able to take full advantage of any capital funding opportunities which require ready to build projects.

EVALUATION OF TENDERS

Tenders were evaluated by a panel of four staff members using the following criteria:

- Lodgement of tender by specified time.
- Ability to manage financial risk.
- Conformity with this Request for Tender.
- The tendered price and structure; as well as any other potential costs to Council that may be identified.
- Demonstrated experience in the field of designing performing arts venues of a similar nature to the Centre described in the Consultant Brief.
- Demonstrated client satisfaction with technical, operational and budgetary performance of the principal consultant and consultant team for the examples of performing arts venues provided.
- Demonstrated capacity and capability to complete the work under the Contract within the required project program.

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

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and related correspondence, referees, external advisors and on site assessment of completed work by the shortlisted tenderers.

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.

4.1 Wyong Shire Cultural Centre - DA Design (contd)

- First short listing of tenders (to 5).
- Detailed weighted evaluation of shortlisted tenders.
- Second short listing of tenders (to 3)
- Due diligence and financial checks on preferred tenderers.

Assessment of Receipt of Tenders

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

Tender Number	Tenderer Name	Tendered Price Option 1 (Inc GST)*	Tendered Price Option 2 (Inc GST)*
1	Brewster Hjorth	\$ 839,707.00	\$1,051,072.00
2	Buzacott Webber	\$893,816.00	\$1,093,466.00
3	Complete Urban	\$1,086,160.00	\$1,284,998.00
4	Daryl Jackson RD	\$866,166.40	\$1,080,200.00
5	Durbach Block	\$1,077,980.00	\$1,477,612.00
6	Gov't Arch Office	\$1,003,348.00	\$1,266,382.00
7	Greenway Hirst Page	\$720,500.00	\$1,136,850.00
8	Group GSA	*	\$1,113,970.00
9	Hassell	\$1,088,311.40	\$1,347,478.00
10	Jackson Teece CW	\$977,179.50	\$1,292,604.50
11	JPW & Candelapas	\$1,408,363.00	\$1,816,199.00
12	Northerly Aspect Pearce	\$959,517.35	\$1,195,210.50
13	Peddle Thorp Walker	\$1,143,558.90	\$1,649,785.50
14	Perumal Pedavoli	\$773,473.80	\$1,053,647.10
15	Quinn O'Hanlon	\$933,715.20	\$1,297,890.00
16	Schreiber Hamilton	\$954,111.40	\$1,371,561.40
17	Suters	\$874,665.00	\$1,103,619.00
18	Tanner	\$857,978.00	\$1,107,150.00
19	TERROIR	\$1,074,205.00	\$1,309,935.00
20	Toland Williams	\$1,098,958.00	\$1,347,977.00
21	Tonkin Zulaikha Greer ("TZG")	\$956,317.00	\$1,188,821.00
22	Tony Youlden	*	*
23	Vivian Fraser	\$815,595.00	\$1,105,819.00
24	Wayne McPhee	\$551,507.00	\$824,087.00
25	Williams Ross	\$778,047.00	\$943,553.00

* Tenderer did not submit a price

Assessment of Conformance of Tenders

These tenders were evaluated by the tender evaluation panel to assess whether they conformed to the requirements of the Request for Tender.

Tenders were required to be without conditions or qualifications and tenders that included alternative contract conditions, did not offer the full service required in the Consultant Brief or did not provide all of the information requested in the Returnable Schedules were considered to be significant non-conforming by the tender evaluation panel and were not considered further.

Tenders that had an aggregate less than 10 million dollars professional indemnity insurance were considered to be insignificant non-conforming tenders and were included for further evaluation.

Nine of the tenderers submitted were assessed to be conforming and these tenderers are listed alphabetically as follows:

Tender Number	Tenderer Name	Option 1 Price (Inc GST)*	Option 2 Price (Inc GST)*
3	Complete Urban	\$1,086,160.00	\$1,284,998.00
4	Daryl Jackson RD	\$866,166.40	\$1,080,200.00
11	JPW & Candelapas	\$1,408,363.00	\$1,816,199.00
13	Peddle Thorp Walker	\$1,143,558.90	\$1,649,785.50
17	Suters	\$874,665.00	\$1,103,619.00
19	TERROIR	\$1,074,205.00	\$1,309,935.00
20	Toland Williams	\$1,098,958.00	\$1,347,977.00
21	Tonkin Zulaikha Greer	\$956,317.00	\$1,188,821.00
24	Wayne McPhee	\$551,507.00	\$824,087.00

Weighted Evaluation

The conforming tenders were scored by the panel on a weighted criteria with the results as follows:

Tender No.	Tenderer Name	Option 2 Price (Inc GST)*	Score
24	Wayne McPhee	\$824,087.00	52
4	Daryl Jackson RD	\$1,080,200.00	72
17	Suters	\$1,103,619.00	64
21	Tonkin Zulaikha Greer	\$1,188,821.00	76
3	Complete Urban	\$1,284,998.00	42
19	TERROIR	\$1,309,935.00	55
20	Toland Williams	\$1,347,977.00	62
13	Peddle Thorp Walker	\$1,649,785.50	55
11	JPW & Candelapas	\$1,816,199.00	44

Short List - Due Diligence

The three highest scoring tenders were placed on a shortlist for a full due diligence assessment:

Tender Number	Tenderer Name	Option 2 Price (Inc GST)*	Weighted Score
21	Tonkin Zulaikha Greer	\$1,188,821.00	76
4	Daryl Jackson Robin Dyke	\$1,080,200.00	72
17	Suters Architects	\$1,103,619.00	64

All three shortlisted firms were subjected to a financial assessment, referee checks, tender interview and inspection of completed projects.

The due diligence assessments were conducted in parallel with the financial assessments being completed at the end of this stage of the tender evaluation.

At least two examples of completed projects were inspected with client representatives. A minimum of three independent referees were contacted for each of the shortlisted tenderers. An independent financial assessor undertook a financial assessment on standard criteria and provided a report to Council. Records of site inspection notes, referee interviews and tender interviews were made.

The Request for Tender called for submissions from firms that had recent experience in performing arts facilities of a similar nature to the Brief. The preferred tenderer has successfully completed a significant number of similar projects over the preceding five years.

While each of the tenderers provides a high level of service, as reflected in the level of referee satisfaction expressed and the quality of projects inspected, the preferred tenderer was considered to offer a superior level of service in the following categories:

- Understanding of brief / diversity of response to brief
- Interaction with user groups
- Communication skills
- Ease of maintenance
- Consistent incorporation of environmental sustainability design principles in projects.

Tender no 21 from Tonkin Zulaikha Greer received the highest scores across each of the criteria areas and also scored highest in the financial assessments. Tonkin Zulaikha Greer's experience includes a wide range of arts facilities that have been constructed over the past 5 years including:

- CarriageWorks at Eveleigh Contemporary Performing Arts Centre 2003-2006 for NSW State Government through Arts NSW.
A centre for contemporary arts and entertainment, including three performance/exhibition spaces designed for the conception, development and presentation of a wide spectrum of performance. The combined facilities meet the requirements of a diverse range of users including industry leaders in television, film, theatre and visual arts.
- 'The Glasshouse', Port Macquarie-Hastings Cultural Centre. 2002-2009
A 600 seat performing arts theatre, a rehearsal/performance studio for 150, conference facilities and a regional gallery located in the centre of Port Macquarie. The project brief was to establish the Cultural Centre as the pre-eminent performance and exhibition arts facility in the region.
- Casula Powerhouse Regional Arts Centre 1992-2008 (4 stages)
Includes a large regional gallery with arts production and performance spaces, within a heritage-listed disused power station on the Georges River to function as a multi-use cultural centre for Liverpool City Council.
- Joy Yeo Performing Arts Centre – Roseville College 2005-2008.
Consisting of a 350 seat theatre, music rehearsal rooms and black box studio. The arts facility is the centerpiece of the masterplan for a unified campus following the redevelopment of much of the school.

It was considered the level of design documentation, build quality, functionality, achievement of Environmentally Sustainable Development (ESD) principals and stakeholder engagement was consistent across all projects.

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

RISK ASSESSMENT

General

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken; for example, design work versus construction work; and the type of contract, for example Lump Sum versus Schedule of Rates.

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks.

These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

Contract Risks

Contract risks include Generic Risks (generally found in most contracting situations) leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

Generic Risks

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

Project Budget

The above risks are considered to be low for this contract given the value of the contract and the nature of the work.

Based on previous experience with contracts of this nature and analysis of the risks involved, a project budget of \$1.23 million (excl GST), is considered appropriate and includes a contingency of 10%. To deliver Option 2, including the cost of engaging an external theatre consultant, cost estimator, DA submission costs, flood study and project management will require a budget of \$1.47m. This consists of \$675,000 in the 2009/10 budget from land sales, and the balance in the 2010/11 budget sourced from Section 94 contributions.

LOCAL CONTENT

The tender for design services was called on an open basis. The work is relatively specialised and a relatively small number of submissions were received. Relevant experience within the major sub-consultancies was considered important. No local design firms submitted a tender, although most tenders were based on using local sub consultants for services such as geotechnical and survey. Therefore there is no appreciable difference between firms on their level of local content.

TIME-FRAME

The timeframe for completion of the provision of design services for the Wyong Shire Cultural Centre is July 2011.

A program for approximately nineteen months was included in the Request for Tender, with the key dates being the following:

7 April 2010	Complete Concept Design
28 July 2010	Submit Development Consent application
2 December 2010	Obtain Development Consent

The floor level of the new cultural centre will be set by the outcome of a new flood study for Wyong township that is currently being prepared. It is anticipated that the flood study will be completed by early March 2010. Completion of the Concept Design, Stage B, relies on a fixed flood level. Stage B will not be commenced until the flood study results are known.

The development application will be assessed initially by Wyong Shire Council Development Assessment Unit and will be determined by the Hunter-Central Coast Region Joint Planning Panel. The planning approval process will be under the control of independent bodies and the completion of the planning approval process cannot be guaranteed by the dates planned.

CONCLUSION

Tender Number 21 from Tonkin Zulaikha Greer is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money. It is recommended that the tender from Tonkin Zulaikha Greer be accepted.

ATTACHMENTS

Nil.

4.2 Draft Climate Change Policy

TRIM REFERENCE: f2009/00067 - D02085415

AUTHOR: KD

SUMMARY

Adapting to the potential impacts of climate change will be one of the most difficult issues that Council and the community will be faced with in the near future. There is now a clear consensus in the scientific and general community of evidence for human-induced climate change. The International Panel on Climate Change (IPCC) indicates that the increase in atmospheric temperature at the Earth's surface is proceeding within the range of its projections, continuing the long-term trend of increasing global temperature (Richardson et al 2009). Recent data (1993-2007) shows the current global average annual sea level rise to have increased from 1.8mm per year to 3.4mm per year (IPCC, 2007).

To minimise some of the anticipated negative social, environmental and economic impacts of climate change Council has committed to the development of a policy framework to guide development, strategic and operational planning decisions and to develop and implement Adaptation and Mitigation Action Plans.

The following report provides a general outline of the draft Climate Change Policy statements. As it does not attempt to cover all the relevant issues, it is recommended that the full draft Climate Change Policy (attached) be read in conjunction with this report. It is proposed that the Policy be publicly exhibited for a period of 56 days taking into account the Christmas holiday period.

RECOMMENDATION

- 1 ***That Council place the draft Climate Change Policy and Technical Guidelines on public exhibition for a period of 56 days for public comment.***
- 2 ***That the draft policy be reported back to Council with details of submissions received following the close of the exhibition period.***
- 3 ***That Council acknowledge its legislative responsibility to apply the precautionary principle to planning and management decision – making when considering the risks associated with Climate Change.***
- 4 ***That Council acknowledge that as a consequence of the requirement to apply the precautionary principle and in recognition of the State Government Policy Statement, the planning benchmarks within the draft Climate Change Policy and Technical Guidelines are currently being applied.***
- 5 ***That Council lobby the State and Federal Government through its Local Members and the Local Government and Shires Associations for a whole of government approach to address the significant broad implications in adapting to Climate Change.***

BACKGROUND

Climate change is a major issue of Sustainability for our organisation and community and Sustainability is one of the essential and underlying principles of our Shire Strategic Vision “Our Shire Our Future”. As part of Council’s sustainability journey, there is a need to build resilience within the organisation and the community so that future generations can cope more readily with the impacts and are not unnecessarily burdened by decisions we make today. Our legacy should be to create a more Sustainable Shire for the future.

The Bureau of Meteorology (BOM 2008) reports that there is a consistent pattern of warming across Australia with Australia’s annual mean temperature for 2008 being 0.41°C above the standard 1961-90 average. Despite the cooling effect of a La Niña event that developed in late 2007, Australia has now recorded a warmer-than-average year for the past seven consecutive years.

With its significant natural and built assets, its diversity of land uses, and low lying coastal topography, Wyong Shire is particularly vulnerable to the impacts of climate change. Some of these vulnerabilities include:

- Increased temperature – resulting in increased frequency and intensity of bushfires, adding to operational costs, impacting human health (temperature stress) and an increased rate of asset deterioration;
- Changes in rainfall – potentially resulting in potential reduced volumes of potable water supply, increased frequency and level of flooding, changed management activities for open space;
- Sea level rise – increased flooding and inundation, increased coastal recession and erosion, increased rate of asset damage in estuarine and coastal areas, and loss of coastal and estuarine ecosystems; and
- Extreme wind and storm events – impacts on emergency services, upgrading building standards, stormwater flooding and damage to infrastructure and natural assets.

Responding to many of these anticipated impacts will fall under the responsibility of local government. Typical functions of council to be affected will include:

- Infrastructure planning and design (including roads, drainage, recreation facilities) and property services
- Developing health services
- Planning and development approvals
- Strategic planning
- Natural resource planning and management (coastline, floodplain, estuary and biodiversity planning and management); and
- Water and sewerage services.

Climate change is identified in Council’s Corporate Risk Register as a high corporate risk to the organisation as well as a growing risk to the community. Developing and implementing a clear policy direction in adapting to and mitigating the potential impacts of climate change is a necessary measure to address the risks. The draft Policy is based on current best practice and supported by state government legislation, policy and guidelines. The drivers for a policy within Council include legal liability, concern from insurance underwriters, the requirement to manage public funds and provision of services. It also provides direction for staff involved in the design and assessment of development proposals and infrastructure. The development of a policy has prompted discussion within Council and will influence other policies/strategies such as the Settlement Strategy, the Comprehensive LEP review and the Asset Management Strategy. Attachment 3 provides a flowchart that represents the “key” framework surrounding Council’s draft Policy.

Legislative Responsibility

Local Government has a clear responsibility to address the issue of Climate Change in a range of legislative, policy and guideline documents administered by the State and Federal Governments. The quantum of information and legislation associated with Climate Change is rapidly expanding and Council will need to be in a position to respond proactively. The draft Policy provides this opportunity.

Local Government faces potential liabilities if it fails to address the issue of Climate Change. The *Local Government Act 1993 (Sect 7 (e))* requires Councils, Councillors and Council employees to have regard to the principles of ecologically sustainable development in carrying out their responsibilities. This is explained as being achievable through the application of the precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

Similarly, the Civil Liability Act 2003 has introduced a new test to determine whether a council has breached its duty of care. Although difficult to establish, councils are advised to protect themselves by adopting clear policies.

A number of other legislation and planning instruments referring to climate change include:

Commonwealth Legislation

- *Environment Protection and Biodiversity Conservation Act 1999*
- *National Greenhouse and Energy Reporting Act 2007*

NSW Acts

- *Threatened Species Conservation Act 1995*
- *Water Management Act 2000*

NSW Regulations

- *Environmental Planning and Assessment Regulation 2000*

NSW Policies

- *NSW Coastal Policy 1997*
 - *NSW Coastal Hazards Policy*
 - *NSW Coastline Management Manual 1990*
 - *NSW Metropolitan Strategy 2006*
 - *NSW Biodiversity Strategy*
 - *NSW Greenhouse Plan*
 - *National Greenhouse Strategy*
 - *NSW State Plan*
 - *Central Coast Regional Strategy*
- (source: Sydney Coastal Councils Group & NSW Environmental Defenders Office)

Australian courts, through interpretation, have made it clear that many planning and environmental laws require consideration of the principles of Ecologically Sustainable Development (ESD).

The principles of ESD are incorporated into Commonwealth legislation (*Environment Protection and Biodiversity Conservation Act 1999* (sections 3 & 3A)) and NSW legislation such as the *Local Government Act 1993* (section 7(e)), *Environmental Planning and Assessment Act 1979* (EP&A Act) (Section 5) and the *Protection of the Environment Operations Act 1997*(Section 6(2)). Section 79C of the EP&A Act places an obligation on a Consent authority to consider the 'Public Interest' and the court has directed that when a consent authority is making a decision regarding the public interest they must include the principles of ESD. ESD requires the consideration of the relevant risks posed by climate change. In some planning merit appeals, courts have assessed the balance of the public interest of addressing climate change against the narrower private interests. Hence consideration of Climate change impacts is a requirement under law, whether or not, Council has in place a policy dealing with the matter.

Recent decisions in the NSW Land and Environment Court have relied upon the application of ESD principles with particular reference to climate change. These decisions fall into two categories:

1. Climate change mitigation where the Court has decided that the contribution of new development e.g. coal power stations, to greenhouse gases and thus climate change, must be considered by decision-makers (*Gray v Minister for Planning*)
2. Climate change impact where the decision-maker must consider the impacts of climate change on proposed development in vulnerable coastal areas, eg – increased flooding (*Walker v Minister for Planning*).

Other jurisdictions in Australia have also considered the direct impacts of Climate change, namely:

- *Gippsland Coastal Board v South Gippsland SC&Ors* (VCAT, 2008) in which the impact of sea level rise due to the effect of Climate change (coastal inundation) was the principle issue, the result being the refusal of the application for subdivision.
- *Northscape Properties Pty Ltd v District Council of Yorke Peninsula* (2007) SAERDC 50 in which the adequacy of coastal retreat and sea level rise was considered the principle issue – application refused.

As a general principle the directions provided by decisions of Courts are to be followed by Consent authorities.

It has also been suggested by the Hon. Justice Brian Preston, Chief Judge Land and Environment Court of NSW, that one of the matters that could flow on from the impacts of climate change on developments and land is "*the possibility that Local Government will be held liable for losses arising from climate change, if they are unwilling to take its impacts into account at decision-making stages and integrate their planning decisions*" (refer to paper *The role of courts in relation to adaptation to climate change*). It is only in recent years that climate change has been more widely accepted by the courts as the potential exists for actions in negligence for damage or loss caused by climate change.

In November this year the State Government released a number of policies to provide guidance in specifically addressing the impacts of climate change:

- NSW State Government Sea Level Rise Policy Statement
- Dept of Planning's Draft NSW Coastal Planning Guideline: Adapting to Sea Level Rise
- Draft Coastal Risk Management Guide: Incorporating the sea level rise benchmarks in coastal hazard assessments
- Draft Flood Risk Management Guide: Incorporating the sea level rise benchmarks in flood risk assessments.

Consultation in respect of those documents that are in draft form will end on the 11 December 2009. No advice has yet been provided from either DECCW or DoP as to when the draft documents will be finalised. Whilst Council does have the option of not adopting a policy or placing its draft Policy on exhibition until the draft Government documents have been finalised, the adopted Government policy statement gives clear direction to Councils regarding the actions that should be taken now in response to climate change. Council would also be aware that Lake Macquarie Council has already an adopted Sea Level Rise Policy and Gosford City Council has recently exhibited its Sea Level Rise Mapping. A number of other Councils in the State are in the process of preparing and adopting policies in response to climate change. For example, the 12 councils within the Sydney Coastal Councils Group have already finalised risk assessments and adaptation plans for each of those local government areas. It is therefore considered timely that Wyong Council place its draft Policy on exhibition and implement the Technical Guidelines contained in the Policy.

Potential Liability

In recent weeks both the State and Federal Governments have called for the issue of liability to be addressed in their Coastal Reforms and House of Representative's Report on "Managing our Coastal Zone in a Changing Climate" respectively. Both levels of Government call for clarification on the issue with research, legal review and legislative changes proposed.

Current legal advice indicates that councils may be liable for future damages if they do not properly consider the impact of sea level rise with other climate induced changes in planning and policy decisions. A position paper prepared by the Environmental Defender's Office for the Sydney Coastal Councils Group in February 2008 concluded that "*councils owe a duty of care to landowners in their consideration of individual development applications in coastal areas that are at most risk from climate change' and that 'as long as councils make a genuine attempt to alleviate the potential risks of climate change, then it is likely that a council's duty of care will be satisfied"*. The best way to do that is to utilise the best available information and reflect that information in planning decisions and policies.

Actions to date

Council at its meeting held on 24 January 2007 resolved unanimously:

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

- 1 *That the report be received and noted.*
- 2 *That Council endorse the climate change risk assessment and adaptation recommendations outlined in the report and attachments.*

- 3 *That Council increase its purchase of GreenPower generally in line with State guidelines as well as other water authority and Council initiatives. As a minimum Council should increase its GreenPower purchase for non water and sewer related energy use from 6% to 25% by 2008 and for water and sewer related energy use from 6% to 10 % by 2008 (all at an additional cost of \$134,000 above current costs) Then, for non water and sewer related energy use, a further increase up to 50% by 2020 and for water and sewer, an increase up to 15% by 2020. Total additional cost in 2020 is \$308,000 above current expenditure with further potential costs for increased consumption up to an additional 50%.*
- 4 *That Council develop a decision making framework to incorporate climate change and energy saving initiatives in all relevant Council business.*
- 5 *That Council engage the community in discussion about its role in addressing climate change and advise the community of the positive actions currently being undertaken by Wyong Council in response to climate change.*
- 6 *That Council formally congratulate the staff who prepared the report'*

Since endorsing the recommendations of the Climate Change Discussion Paper in January 2007, Council has adopted a suite of measures to respond at a local scale to climate change:

- Develop an over-arching Sustainability Decision-Making Framework (to maximise energy and material efficiencies in design, resource recovery)
- Initiate a risk assessment process
- Implement the Energy Savings Action Plan
- Increase proportion of GreenPower purchased
- Participate in GreenFleet program
- Review environmental planning instruments and policies
- Review the Fleet Policy
- Undertake an in-house Education and Training program.

Development of a Climate Change Policy is the next step.

THE CLIMATE CHANGE POLICY

The draft Climate Change Policy provides an overarching policy framework to guide development, strategic and operational planning decisions and to develop and implement Adaptation and Mitigation Action Plans. The policy covers a range of potential impacts of climate change and is not limited to just one aspect such as sea level rise. This is considered essential as the planning/design response to many of the potential impacts, such as sea level rise and increased rainfall intensity, would be cumulative and be best dealt with together rather than incrementally with separate policy statements.

Essentially the policy requires that Council undertake appropriate risk assessments for all vulnerable development, projects or activities against projected climate change scenarios to assess the implications and to develop the most feasible adaptation measures. Broad program risk assessments are currently funded and underway for the Coastline Management Plan (CMP) (coastal hazards) and the various Floodplain Risk Management plans.

Until these current studies are completed, the draft Policy recommends that Council adopt interim measures based on current best practice including the recently released State Government Sea Level Rise Policy Statement and DOP's Draft Coastal Planning Guideline. These form the basis for the interim measures addressed in the Climate Change Policy. Once the actions determined under the risk assessments have been adopted by Council, (such as the CMP), the interim measures will be superseded.

In addition to the major risk management plans, the Sustainability Unit, through an arrangement with Statewide Mutual, (Council's Insurers), and with some assistance from the Hunter Central Coast Regional Environmental Management Strategy (HCCREMS), will roll out over the first half of 2010, structured risk assessment workshops with staff. This process will identify the most significant areas of risk and establish priorities, costs and timeframes for development of an Adaptation Action Plan for Wyong Shire. It will also build the capability of Council to assess and prioritise risks related to climate change and foster leadership to enable a co-ordinated and strategic response.

At this stage it is uncertain as to the extent of detail that the above process will provide both in terms of the level to which it will engage staff and the extent to which it will encompass the issues of major concern to Council. To address any gaps, it is intended that all Council Operational Units undertake climate change awareness and risk assessment training to ensure they are equipped to assess the implications of projected climate change scenarios against their activities and projects and they are able to develop the most feasible adaptation measures to alleviate any risks.

This project is funded within the 2009-10 Management Plan but will require key staff in each Unit to participate particularly those involved in asset design and management. Risk assessment will provide key information on the vulnerability of existing Council works and Council owned property to the impacts of climate change. The Adaptation Plan will be developed from this key information to direct future adaptation measures. Many of these risks may not eventuate for some time and mitigation measures could be built into normal maintenance or replacement programs.

Consultation with staff in the development of this Policy has highlighted the need to differentiate between a private development and those developments undertaken by Council for the purpose of providing an obvious public benefit and their merits of each are considered in the context of future climate change impacts.

Under the Policy the activities undertaken by Council that are associated with new infrastructure (assessed under Part 5 of the EP & A Act) will be required to undertake the necessary risk assessment process and be designed to demonstrate that the risk can be managed with appropriate and relevant mitigating and adaptive measures against the anticipated impacts of climate change for the asset period of the development.

For example, sports fields and jetties can be constructed within areas subject to inundation as long as they meet their performance criteria without being subject to raising the Flood Planning Level (or Climate Change Allowance) as the Policy requires of private development. Similarly, it allows Council to assess the risk to an asset and determine at what stage into the future it may become redundant because the risk of frequent or permanent inundation has become unacceptable. Routine maintenance activities undertaken by Council are exempted from the Policy.

Technical Guidelines

The Inquiry into Climate Change and environmental impacts on coastal communities by the House Standing Committee on Climate Change, Water, Environment and the Arts says in the Report tabled in parliament in November 2009 that climate change raises many complex legal issues with regard to Australia's coastal zone. It says councils are at the forefront of daily coastal management and have major concerns in this area. The committee also said that councils need to develop clearly defined policies to deal with climate change and make the risks of climate change impacts an "explicit part of decision-making criteria to assist in limiting their potential exposure to legal action".

The draft Policy is supported by Technical Guidelines which will provide a consistent framework to planning and management decision-making when considering the risks associated with climate change. The Technical Guidelines also provide interim planning guidelines to address sea level rise and increased rainfall intensity pending completion of coastal and floodplain risk management plans that incorporate the Climate Change Projections. The Guidelines cover both climate change scenarios and a methodology for determining the "asset period" for a particular development, strategy or infrastructure. Council has developed the Cost-Asset Period curve based on examining what is currently being done within the fields of planning and asset management. There are no clearly defined or adopted models to determine "Asset Period" but a range of methods used across both industries. Development of the curve was based on gathering ABS data in relation to costs and anecdotal information relating to asset periods for various developments such residential brick veneer dwellings. The curve was determined by fixing a \$300k average new residential brick veneer dwelling cost to 75 year asset period.

The Technical Guidelines also include the methodology to determine (where appropriate), an increase in the Flood Planning Level or Climate Change Allowance. The Technical Guidelines and the Climate Change Projections will likely require amendment (into the future) to reflect the latest scientific information. IPCC will release new information and updated projections about every five years.

The draft Policy also provides a platform from which an Adaptation Action Plan and a Mitigation Measures Plan will be prepared and implemented by Council.

Council should note that the Technical Guidelines are consistent with the following technical notes issued by DECCW as part of the Government's Climate Change response package as follows:

- *Draft Flood Risk Management Guide: Incorporating Sea Level Rise Benchmarks in Flood Risk Assessments*
- ;
- *Derivation of the NSW Government's Sea Level Rise Planning Benchmarks.*

Wyong Council's draft Technical Guidelines have also been discussed with Mr Phil Watson, DECCW's Senior Coastline Engineer (who was generally responsible for providing the technical input for the Government's climate change response package. He is of the opinion Council's approach is consistent with the State Government's direction. In addition, Council staff are meeting with the Deputy Director General of DECCW on 9 December 2009. A verbal update regarding the outcome of this meeting will be provided to Council when it meets on the night of the 9th December 2009.

The Adaptation Action Plan will provide guidance to staff and community to prepare for the impacts of climate change. It's objective is to reduce Council's exposure to risks associated with climate change and form an important component in demonstrating that Council has adopted a reasonable response to deal with the uncertainty of climate change. The risk assessments undertaken within Council will form a major part of this Plan.

The Mitigation Measures Plan will outline measures that Council can undertake to reduce its own carbon footprint and therefore contribute to global efforts to reduce the future severity of climate change. Council has already resolved that a report be prepared on the prospect of achieving Carbon Neutrality by 2050.

What the Policy doesn't include:

The draft Policy does not address the many problems faced by existing development under a climate change scenario. Measures may in part be developed under current risk management plans, such as the CMP, however, the impacts are far reaching, significant and extensive and often outside the control of Council. The impacts include clarifying liability, insurance to vulnerable properties, the ability of vulnerable properties to obtain bank loans against their land and devaluation of property prices in the vulnerable areas. Another significant issue revolves around who is responsible for deciding between protection or management actions and who will pay for either where very significant costs are involved. In terms of coastal management, the State Government has recently announced that it is initiating a set of Coastal Reforms. In essence, these reforms, although not fully rolled out, appear to place more of the responsibility for these decisions on Council and landholders whilst the State Government reduces its liability. Council has for some time called for the issue to be addressed through a "whole of Government approach" and this action is reflected in the recommendations of this report.

The Federal Government has also released a House of Representative's Report on 'Managing Our Coastal Zone in a Changing Climate,' raising the need for planning reforms as many properties will be affected over time. The Report calls for a whole of Government approach to addressing the impacts of climate change and current coastal erosion issues. The report reiterates the warnings for climate change and calls for immediate action as the fallout will be very significant.

The Federal Government appears to want to take the lead by undertaking research, commissioning reports, preparing planning guidelines and building codes, and providing funds. The Federal Government report also discusses an appropriate response to rising sea levels such as planned retreat and recognises the many problems and issues surrounding that including those of liability and who pays.

LAND USE PLANNING

Typically, strategic planning timeframes do not extend beyond 20-30 years into the future. However, with climate change projections extending up to the year 2100 (and beyond) it is critical that Council begin to consider the potential impacts of climate change in the context of the longer term future.

The draft Policy provides for an adaptive risk assessment approach to ensure a manageable risk for works, activities and future development against the anticipated impacts of climate change, including sea level rise, increased rainfall intensity and flooding, health issues, bush fire risk, etc. The draft Policy recommends that any strategic planning study, rezoning proposal, design, investigation, policy or masterplan for land that may be affected by climate change take into account a minimum 100-year climate change planning period, despite the fact that our general land use planning policies only consider a horizon of 20 to 25 years. The draft Policy will provide effective guidance for developers and staff to implement the precautionary principle and minimise the potential for liability by including an allowance for future climate change scenarios in development applications.

Inundation from the impacts of Climate Change

One of the major foreseeable consequences of climate change will be sea level rise. Due to the low lying topography of the coastal fringe and estuarine areas within Wyong Shire, it is anticipated that rising sea levels will directly threaten many communities. Based on the latest climate change research, Council has developed a draft set of indicative mapping (vulnerability mapping) which will alert staff to properties potentially affected by sea level rise. It is intended that these maps be placed on exhibition as part of the public consultation process. Following adoption of the draft Policy and finalisation of the maps, it is considered that an additional notation should be placed on affected Section 149 Planning Certificates to advise the community of properties potentially at risk from climate change. Council's solicitors are currently reviewing the level of information, appropriate wording and any potential impacts on Council's liability that may result from the updating of Section 149 Planning Certificates. It is anticipated that this legal advice will be available prior to the Council meeting of 9th December 2009.

The current allowance (upon which the mapping relies) is based upon the sea level rise planning benchmarks from the NSW Department of Environment and Climate Change and Water's (DECCW 2009) Sea Level Rise Policy Statement which provides for an increase above 1990 mean sea levels of 40 cm by 2050 and 90 cm by 2100.

The DECCW planning benchmarks are based on the sea level rise projections developed by Australian and international experts and are considered most appropriate for NSW, while acknowledging the uncertainty associated with these projections.

The planning benchmarks should be used for purposes such as:

- Incorporating the projected impacts of sea level rise within predicted flood risks and coastal hazards;
- The designing and upgrading of public assets in low-lying coastal areas where appropriate, taking into account the design life of the asset and the projected sea level rise over this period;
- Assessing the influence of sea level rise and associated impacts on new development;
- Considering the impact of sea level rise on coastal and estuarine habitats, such as salt marshes, and identifying valuable habitats at most risk from sea level rise;
- Assessing the impact of changed salinity levels in estuaries, including implications for access to fresh water (DECCW 2009);
- Strategic planning initiatives.

The Federal Government released its *Climate Change Risks to Australia's Coast* in November 2009. In relation to sea level rise it quotes IPCC data that indicates global sea level rose by about 3.1 millimetres per year, from 1993 to 2003, compared to 1.8 millimetres per year from 1961 to 2003. These rates of increase are an order of magnitude greater than the average rate of sea-level rise over the previous several thousand years.

There is growing consensus in the science community that sea-level rise at the upper end of the IPCC estimates is plausible by the end of this century, and that a rise of more than 1.0 metre and as high as 1.5 metres cannot be ruled out.

CSIRO has developed three simple scenarios for sea-level rise (relative to 1990), at three time-steps across the 21st century:

4.2 Draft Climate Change Policy (contd)

Year	Scenario 1 (B1)	Scenario 2 (A1FI)	Scenario 3 (High end)
2030	0.132	0.146	0.200
2070	0.333	0.471	0.700
2100	0.496	0.819	1.100

Scenario 1 (B1) considers sea-level rise in the context of a global agreement that brings about dramatic reductions in global emissions. This scenario represents sea-level rise that is likely to be unavoidable.

Scenario 2 (A1FI) represents the upper end of IPCC AR4 'A1FI' projections and is in line with recent global emissions and observations of sea-level rise.

Scenario 3 (High end) considers the possible high-end risk identified in AR4 (4th Assessment Report) and includes some new evidence on icesheet dynamics published since 2006 and after AR4.

The draft Policy is based upon the CSIRO levels as incorporated in the NSW State Government (DECCW's) Sea Level Rise Policy Statement and in particular the DECCW technical note *Incorporating Sea Level Rise Benchmarks in Flood Risk Assessments* but it also provides a means to assign an Asset Period for a particular development, works and/or activity. From this information Climate Change Allowances (CCA) can be determined for properties affected by inundation due to the sea level rise and for properties affected by inundation or flooding due to increases in rainfall intensity along creeks and river floodplains. It is noted that the draft Policy is an interim Policy pending the completion and/or updating of all Council's flood studies and Floodplain Risk Management Plans. The CCA, where appropriate, can be applied to floor levels, building flood protection requirements, flood inundation and existing flood planning levels for applications within vulnerable areas. Note: DECCW guidelines indicate increased rainfall intensities to the year 2070 only. The draft Policy relates to asset periods of greater than 60 years and therefore beyond the year 2070. As such, an allowance is to be incorporated in the Flood Planning Level (FPL) due to increased rainfall intensities which is to match the asset period.

This allowance must be extrapolated beyond the results indicated in the catchment specific flood study to match the asset period. This is required as the levels are only determined for a specific year, being 2070. For developments that have an Asset Period of either less than or greater than that equivalent to 2070, a CCA will need to be determined from the extrapolation, i.e. from 1990 to 2070 and from 2070 to at least 2100. The extrapolation is based on the precautionary principle and is assumed as a straight line. This allowance is in addition to the Freeboard (0.50m) prescribed by the NSW Floodplain Development Manual (2005).

Practical Implications

Attachment 4 provides a number of worked examples to indicate the potential practical implications of the draft Policy.

Council should be aware that the implications of the draft Policy in respect to development currently affected by the 1: 100 year flood planning line means that:

Note: new 1 in 100 year flood levels will be developed as part of all the new flood studies and Floodplain Risk Management Plans that incorporate the potential impacts of climate change.

- Currently the 1 in 100 year flood level is converted to a flood planning level by adding a .0.50m freeboard and is applicable to dwellings and all habitable spaces.

4.2 Draft Climate Change Policy (contd)

- The draft Policy imposes an additional climate change induced allowance of up to 1.00m subject to the determination of the asset period.
- This means that a new dwelling in Chittaway, for example, must be constructed up to a minimum 1.5m above the flood level.

Over the past few years, Council's Development Assessment Staff have been confronted with the issue of Climate Change and how to incorporate due consideration of such into the assessment of a development application. This consideration is required by legislation in particular, the precautionary principle and Section 79C of the EPA Act. In addition, the State Government Policy Statement and recent case law, (as outlined earlier in this report), support the necessity of applying current climate change bench marks whether or not a Council has a formal adopted policy. Therefore, staff have been applying the precautionary principle to developments which are impacted by sea level rise and lake levels by imposing the new flood planning line which incorporates an additional climate change induced allowance of up to 1.00m. This planning line is in accordance with the draft Policy.

In adopting new Floodplain Risk Management Plans, Council will also need to address the issue of protection measures along the rivers and estuary and how they may complement a process of planned retreat. The State Government Reforms have raised the issue of potential policy or guidelines being developed to enable both residents and Council to implement protection measures in appropriate instances subject to strict guidelines. Such options will be canvassed during the development and exhibition of the Floodplain Risk Management Plans.

Coastline Management

Pending completion of the CMP the proposed draft Policy provides interim measures based on the NSW State Government's Sea Level Rise Policy Statement under its Coastal Reforms package. Once the actions determined under the risk assessments for the CMP have been adopted by Council, the interim measures will be superseded and no longer be applicable. These interim measures include an allowance for sea level rise and inundation within the coastal and estuarine zones as well as a planning guideline for new development, alterations and additions.

The Hazard Assessment process undertaken as part of the development of the CMP forms the risk assessment process for the Wyong coastline and will incorporate the potential impacts of Climate Change as indicated within the Technical Guidelines.

Within this hazard assessment process, potential coastal recession and erosion has traditionally been modelled to determine the hazard and risk within a 50 year time step. Council's current DCP 2005 Chapter 77 Coastal Hazards delineates an *immediate* or *very high* hazard erosion zone for the dunes or bluffs where no development or improvements to dwellings can occur. Further west of this line development can occur in the *high* hazard zone (0-50 years) or *medium* hazard areas (50 -100 years) but is subject to development controls that address the hazard. The hazard lines within DCP 2005 Chapter 77 do not include an allowance for the current IPCC climate change scenario as the work was done in the late 1990s.

With the new hazard lines being developed at present under the CMP the lines will generally move inland. The new hazard line will include a current erosion or *immediate* high hazard line as well as a 50 year and 100 year hazard line that reflects where the current erosion or *immediate* high hazard line will be in approximately 2060 and 2110. The implication is that where the current erosion or *immediate* high hazard line moves inland, the risk to development and the controls over or exclusion of development will also progressively move inland over time. Consequently, managing the planning process in the future will require a far more flexible and adaptive approach.

Accompanying development of the CMP, Council will prepare a new DCP Chapter for Coastal Hazards that will need to be consistent with State Government Draft NSW Coastal Planning Guidelines. The objectives of these guidelines include reducing the intensity of coastal development within the vulnerable areas of the coastal zone as well as advising the public of the risks to ensure informed land use planning.

To ensure an adaptive and flexible approach is maintained, and one that is consistent with the current State Government Coastal Reforms, the following additional interim guideline for development within the coastal zone would apply.

- *Proposed new development, modifications or additions landwards of the current erosion or immediate high hazard line must not be located seawards of a hazard line as determined equivalent to the Asset Period (as determined from the Technical Guidelines) for that new development, modifications or additions, i.e. the new development should be located landwards of the hazard line equivalent to the Asset Period.*

For example, a house with an Asset Period of 70 years should be located outside or beyond the equivalent 70 year hazard line. Similarly, a smaller structure such as a deck, with an Asset Period of 15 years, could be located immediately outside the 15 year hazard line. The 70 and 15 year hazard lines can be interpolated between the current 0, 50 and 100 year hazard lines until additional hazard lines are formulated as part of the CMP process. This has the effect of not sterilising land until it is necessary on the basis of rising sea levels.

Where development is located immediately adjacent or within proximity to a hazard line equivalent to that development's Asset Period then the development could potentially be affected by the impacts of climate change soon after the Asset Period is realised. In such cases, the development consent should be time limited to the Asset Period. When the asset period expires the time limited condition should be reassessed. Consent should be extended in time if the rate of coastal retreat due to climate change is less than originally projected at the time the original development consent was issued. Should the rate of coastal retreat be equal to that predicted then the dwelling should be relocated, repositioned or demolished. In this regard the recently released State Government policies and draft guidelines (as per list under Legislative Requirements) clearly indicate that the responsibility and the cost for activity such as relocation, demolition and abandonment of a property lies clearly with the landholder.

Council should note that time limited consents relating to asset period and the implications of climate change are already being applied by other Councils. HWL has advised that the use of time limited consents is both appropriate and able to withstand legal challenge.

In adopting a CMP, Council will also need to address the issue of protection measures along the coast and how they would complement a process of planned retreat. The State Government Coastal Reforms have raised the issue of potential policy or guidelines being developed to enable both residents and Council to implement protection measures in appropriate instances subject to strict guidelines. Such options will be canvassed during the development and exhibition of the CMP.

Bushfire Management

The major impact of climate change on bushfire management is expected to be a significant increase in the number of very high or extreme fire days equating to a significant additional risk to life and property. Additionally, fire seasons are expected to be longer overall, and opportunities to carry out hazard reduction works may be reduced.

The management of bushfires interacts with other policy areas including water supply, biodiversity, air pollution, tourism and timber production, as well as the more obvious impacts on human life and property. The draft Climate Change Policy recommends (among other things) the preparation of bushfire management reports for new development (including those considered under Part 4 and Part 5 of the EP&A Act) located on bushfire prone land. The report is to include explicit consideration of the likely impacts of climate change on bushfire hazard, including (if appropriate) the wider locality impacts relating to infrastructure security, transport networks and demand on emergency services.

Resource Implications

The resources required to achieve the necessary integration of bushfire risk management into Council's planning and development assessment processes and to manage the potential impacts of climate change on Council land are programmed to be reconsidered as part of Council's Level of Service deliberations, following completion of the Bushfire Management Plan.

Community Support and Human Health

Educating and engaging effectively with the community on the issue of climate change will be important to ensure our communities are resilient in the face of the projected impacts of climate change. Council, along with state and federal government agencies will be required to deliver educative programs that will assist residents and communities to develop an informed understanding of climate change trends, impacts and implications, in particular the human health implications of climate change.

The long term impacts upon human health may include increases in vector borne diseases, gastro-intestinal diseases and mental health effects such as depression and post traumatic stress disorder. In terms of providing support for communities to respond to and prepare for the impacts of climate change, there is the potential for Council's facilities to become community 'hubs' providing refuge in times of extreme weather such as bushfire, flooding and extended heatwave conditions.

The draft Policy supports community development and implementation of climate change mitigation and adaptation strategies by individuals, households, communities and community organisations. This forms part of Council's responsibility to manage what is identified as one of its major corporate risks and is in accordance with Council's resolution of 24 January, 2007.

It is not expected that the resources required to deliver this service will be beyond what is already delivered through the current programs undertaken within Council with staff assistance and strategic direction provided through the Sustainability Unit.

Natural Resource Management

Many of the ecosystems identified by the International Panel on Climate Change (IPCC) as vulnerable to the predicted impacts of climate change occur within Wyong Shire and the potential for their loss due to climate change should be considered based not only on their intrinsic value but also the value of services they bring to the community, for example, clean drinking water, shade and shelter, health and lifestyle benefits, tourism.

Integrated biodiversity planning between the local, regional and state levels will be necessary to maintain connectivity across the landscape to maximise opportunities for species and communities to migrate as they adapt to changing climatic conditions. The development of east-west biodiversity corridors is seen as an imperative to address the need for species to migrate away from the coast as the local climate and conditions change. Major impacts are also envisaged for lake shore flora and fauna such as sea grasses and saltmarsh. This should be addressed within the Estuary Management program.

Stormwater management practices will also need to reflect the potential impacts of climate change. New adaptive methodologies will need to be developed following the risk assessments that will be undertaken in Council and from direction being developed within the stormwater industry such as the revisions of Australian Rainfall and Runoff manual.

There are management and planning actions that can be undertaken to assist species and ecosystems to respond and build resilience to climate change. These actions may assist the natural adaptation of species and protect species that are particularly vulnerable to climate change. This issue is also a major thrust of the Federal Government's Report on "Managing Our Coastal Zone in a Changing Climate".

Resource Implications

The development of the Natural Resources (NR) Strategy has been earmarked as a priority for Council under the SSV. It is expected that addressing the impacts of climate change on the natural environment will be an essential part of the Strategy. Council would recall that the review of the Natural Resources Unit Levels of Service recently undertaken recommended an increase in resource. In particular, as outlined earlier in this report, the Flood Planning Level incorporating climate change impacts that is included in the draft Technical Guidelines, is an interim level pending the preparation, completion and updating of all flood studies within the Shire. All existing flood studies except Porters Creek, will need to be updated to incorporate climate change impacts. However, flood studies which are currently underway or about to commence will include the potential impacts of climate change. Historically, DECCW has not approved funding for the upgrading of flood studies to incorporate climate change, whilst it has provided funding for new studies, on the basis of a one third of the cost being met by Council. Recent advice from DECCW is that its new policy position enables funding to be provided for the review and upgrading of existing flood studies. On this basis, it is intended that the Natural Resources Unit will aim to have all flood studies relevant to the Shire completed with climate change implications incorporated within each, within the next three to five years. Whilst it is likely that DECCW will provide two thirds of the funding for this program, Council will still need to find the remaining one third. In undertaking the current flood studies, Council has voted approximately \$100k pa and it is envisaged that a budget in this vicinity, ie, \$100k will need to be provided on an annual basis for the period of the program.

CONCLUSION

The issues dealt with in this report and in the draft Policy are not a comprehensive review of all of the anticipated impacts of climate change for Wyong Shire. They are an overview of what are believed to be the most relevant issues. A full review of the climate change risks will be dealt with as a pre-cursor to the development of the Adaptation Action Plan whereby a thorough risk assessment approach will identify and prioritise the most significant areas of risks as they apply to council's planning, operations, infrastructure and open space management. It is intended that Council will engage the community in the risk management process and ensure transparency in communicating decisions on risk treatment options and the implementation of an Action Plan.

The effects of climate change will have direct and indirect implications on local government and its communities. There will be variation in the scale of impacts upon communities between and within each local government area. There will be inequities in the way the impacts are felt. For instance, low-income groups and older residents will be potentially more vulnerable to impacts such as heat stress and disease, while those living in vulnerable localities may suffer financial hardship with reduced access to insurance and bank funding.

To be adequately prepared for a future defined by a changing climate Council's response to climate change will be two-fold and should be managed simultaneously:

- 1 Managing and reducing its own greenhouse emissions (mitigation); and
- 2 Reducing its vulnerability and preparing its community for the impacts of climate change (adaptation).

This Policy seeks to address the uncertainty that climate change brings through provision of planning guidelines and a direction for future Mitigation and Adaptation Plans.

ATTACHMENTS

1	Technical Guidelines		D02096936
2	Flowchart Climate Change Policy		D02094809
3	Draft Climate Change Policy	Enclosure	D02095596
4	Examples of How Climate Change Policy would be Implemented		D02095375

TECHNICAL GUIDELINES FOR ADAPTATION TO CLIMATE CHANGE

Table 1 CLIMATE CHANGE PROJECTIONS⁹

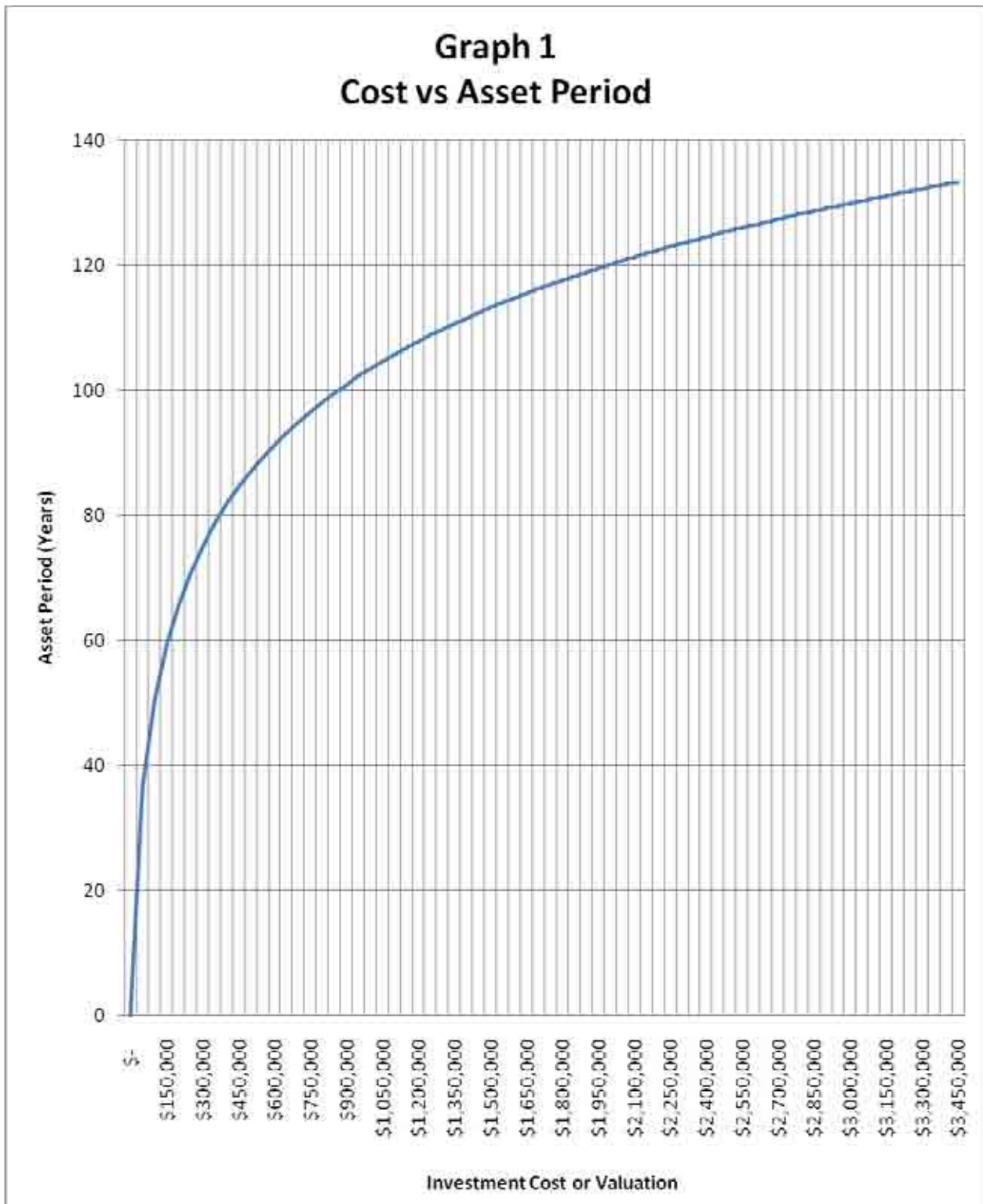
The following table outlines the anticipated minimum climate change projections and implications of altered frequencies and intensities of extreme weather, climate and sea level events to be used in all Council's strategic, infrastructure and operational planning.

	Present ¹	Projected Change 2030	Projected Change 2070	Impacts upon Built Environment	Impacts upon Natural Environment	Impact upon Human Aspects
Rainfall⁹						
Annual Average	1.094mm	-13 to +7%	-40 to +20%	<ul style="list-style-type: none"> Uncertain water quantity and quality for consumption. 	<ul style="list-style-type: none"> Decreased biodiversity resilience and changes in the distribution of plant and animal species. Increased risk, severity and incidence of fire. Increase likelihood and severity of drought. Decrease in annual surface water run-off. 	<ul style="list-style-type: none"> Decrease in water supply.
Annual Extreme Rainfall³ (Increased flood risk)		-3 to +12%	-7 to +10%	<ul style="list-style-type: none"> Damage to infrastructure. Stormwater and sewerage systems inundated with frequent sewage overflow. Power outages, disrupted communication and transport networks. 	<ul style="list-style-type: none"> Altered river flows and flooding zones. Increased erosion and sedimentation. Changes in flood regimes may lead to morphological changes in streams. Salt gradient and sedimentation will effect catchment and waterway health. Changes to acid sulphate soil behaviour. 	<ul style="list-style-type: none"> Changed spread of diseases (such as dengue fever), pests and weeds. Increased cost of storm damage to property and infrastructure. Loss of private and public assets.
Rainfall Intensity⁷			+30%			
Evaporation		+1 to +8%	+2 to +24%		<ul style="list-style-type: none"> Increased fire risk. Reduced water availability for ecosystems, potentially leading to increasing eutrophication and algal blooms. 	<ul style="list-style-type: none"> Decrease in water supply.
Droughts per decade⁴	3	2 to 5	1 to 9			
Extreme Winds	0	-5 to +8%	-16 to +24%			
Fire Days⁵	9	9 to 11	10 to 15	<ul style="list-style-type: none"> Greater impact on urban fringe. Asset protection zone design. Greater loss of infrastructure and property. Landfill destruction. Power outages, disrupted communication and transport networks. 	<ul style="list-style-type: none"> Simplification of ecosystems and communities. Loss of biodiversity. Air quality impacts. 	<ul style="list-style-type: none"> Increased asthma from smoke. Increased risk to personnel. Increased loss of life. Reconsider approach to fire management and increased investment in equipment. Loss or damage to public and private assets.

	Present ¹	Projected Change 2030	Projected Change 2070	Impacts upon Built Environment	Impacts upon Natural Environment	Impact upon Human Aspects
Temperature⁹						
Average	² 17 to 26°C	+0.2 to +1.6°C	+0.7 to +4.8°C	<ul style="list-style-type: none"> • Rise in evaporation rates will reduce moisture balance, increasing vulnerability to water supply shortages • Damage to infrastructure and housing design. 	<ul style="list-style-type: none"> • Degradation of viable habitat. • Limited capacity of some species to disperse to new locations. • Disruption to connectivity reduction/loss of some species. • Shift in distribution of some species – increase in feral distributions. • Reduced ability to adapt and survive. • Reduced resilience of ecosystems. • Changes to fire regimes. • Loss of coastal wetlands. 	<ul style="list-style-type: none"> • Increase in the incidence of asthma (dust, smoke, organisms). • Possible increased cost of agricultural production and/or changed products. • Increase in deaths from heat events. • Increased demand for air conditioning (more energy use). • Energy supply not sufficient as demand increases and supply failures increase. • Interruption to essential services, reduced community accessibility and mobility.
Annual cold days < 0°C	0	0	0			
Days above 35°C	3	4 to 6	4 to 18			
Days above 40°C	0	0 to 1	1 to 4			
Sea Level Rise⁸						
Note: Tuggerah Lakes water surface is between 0.2-0.3m above mean tidal ocean level, therefore although uncertainty exists, it is anticipated that the levels will rise proportionately in line with the projected rise in sea level and this will result in broader areas of inundation around the Lake.		Projected Change 2050	Projected Change 2100	Impacts upon Built Environment	Impacts upon Natural Environment	Impact upon Human Aspects
		40cm	⁶ 93cm	<ul style="list-style-type: none"> • Increased cost of storm damage to property and infrastructure. • Risk to underground telecommunications systems. • Seafront infrastructure (seawalls, jetties) at risk. 	<ul style="list-style-type: none"> • Increased pressure on dune system – increased saltwater intrusion, coastline erosion and shoreline recession. • Marine inundation of coastal wetlands. • Landward migration of mangrove habitat from tidal inundation. • Loss of saltmarsh. • Changes in habitat due to saltwater intrusion. 	<ul style="list-style-type: none"> • Loss of public space and existing facilities. • Damage to places of cultural significance. • Interruption to essential services. • Loss of income and tourism by reduction of population growth.
¹ Present day conditions for temperature and rainfall represent long-term averages from the Bureau of Meteorology. For extreme temperatures, the present average is based on 1964-2003. For fire danger, the present average is based on 1974-2003. For drought, the present average is for a period centred on 1990. ² Range represents average July and January maximum temperature. ³ Defined as 1 in 40 year 1-day rainfall total. Values represent the range in seasonal projections from a limited set of climate models for central eastern NSW. However, given strong spatial gradients in extreme rainfall projections (see Hennessy et al., 2004b), these regional results may not be applicable for Sydney. ⁴ The values for drought represent average monthly drought frequencies, based upon the Bureau of Meteorology's criteria for serious rainfall deficiency (see also Burke et al., 2006). ⁵ Number of days annually with a "very high" or "extreme" fire danger index. Changes are for 2020 and 2050, respectively, as in Hennessy et al. (2005). ⁶ Sea level rise projection for 2100 has had the rounding of 3cm removed from the reported 90cm (DECC 2009). ⁷ NSW Department of Environment and Climate Change 2007 Floodplain Risk Management Guideline entitled <i>Practical Considerations of Climate Change</i> . ⁸ NSW Department of Environment and Climate Change 2009 <i>Draft Sea Level Rise Technical Guidelines</i> . ⁹ Commonwealth Scientific and Industrial Research Organisation (CSIRO) 2006 <i>Climate Change in Sydney Metropolitan Catchments</i> Australian Greenhouse Office Councils Group and the Australian Department of Climate Change.						

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TECHNICAL GUIDELINES FOR ADAPTATION TO CLIMATE CHANGE



Cost Vs Asset Period

An Asset Period is the time that a development, infrastructure, works or activity maintains a specified level of service and condition, based on community and client expectations. It does not consider the development's commencement or completion date.

Examples

a) An addition or extension with a construction cost of about \$50k would equate to approximately a 35-year asset period, while a \$100k addition equate to a 50-year asset period.

b) A subdivision with a construction cost of about \$1.5m would equate to approximately 115-year asset period.

(Note: the cost of works for subdivisions is not always an appropriate indicator to determine asset period. In this case the standard planning period should be 100 years.

c) An industrial or commercial development with a construction cost estimated at \$1.0m would equate to approximately 102-year asset period.

d) A small new dwelling timber framed and hardiplank with an estimated cost \$200k would equate to approximately 65-year asset period.

e) A large new dwelling full masonry with an estimated cost \$600k would equate to approximately 90-year asset period.

Notes

1) Median cost of new house 07-08 is \$272,000 based on ABS sources.

2) Anecdotal evidence indicates that a residential brick veneer dwelling has a 60 to 75 year asset period.

3) 10-year average interest rate is 7.28% and CPI is 3.08% based on RBA sources.

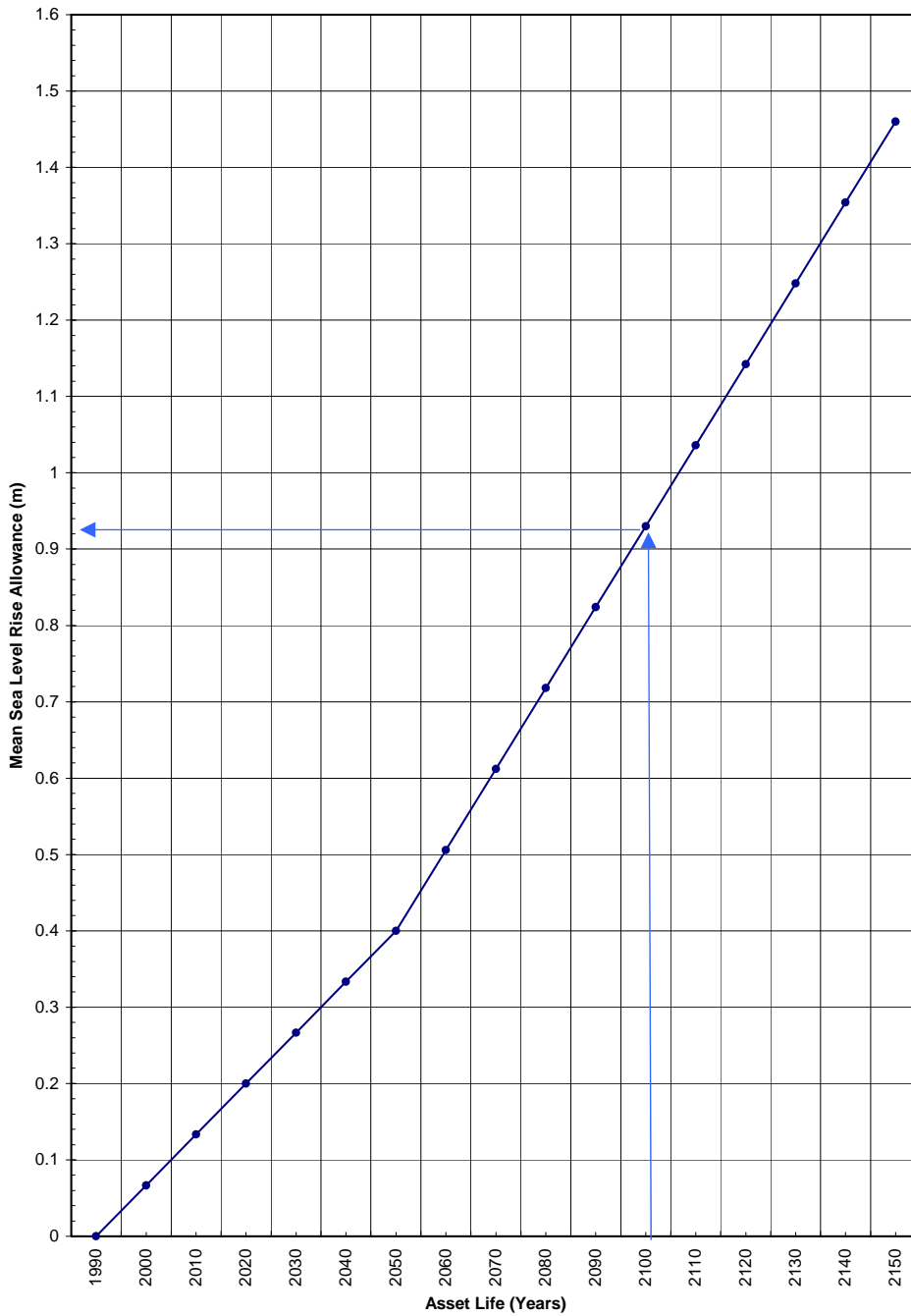
4) Nett rate of growth on investment based on 10-year averages is 4.20%.

5) Curve determined by fixing \$300,000 average new residential brick veneer dwelling cost to 75-year asset period.

6) Investment Cost is the capital cost, implementation cost, development cost or valuation of a proposed development, infrastructure or works to construct, enact or activate on a parcel of land, whether private or public. The accumulative Investment Cost of a larger network, community facility or system must be considered when dealing with a small or component of a development.

TECHNICAL GUIDELINES FOR ADAPTATION TO CLIMATE CHANGE

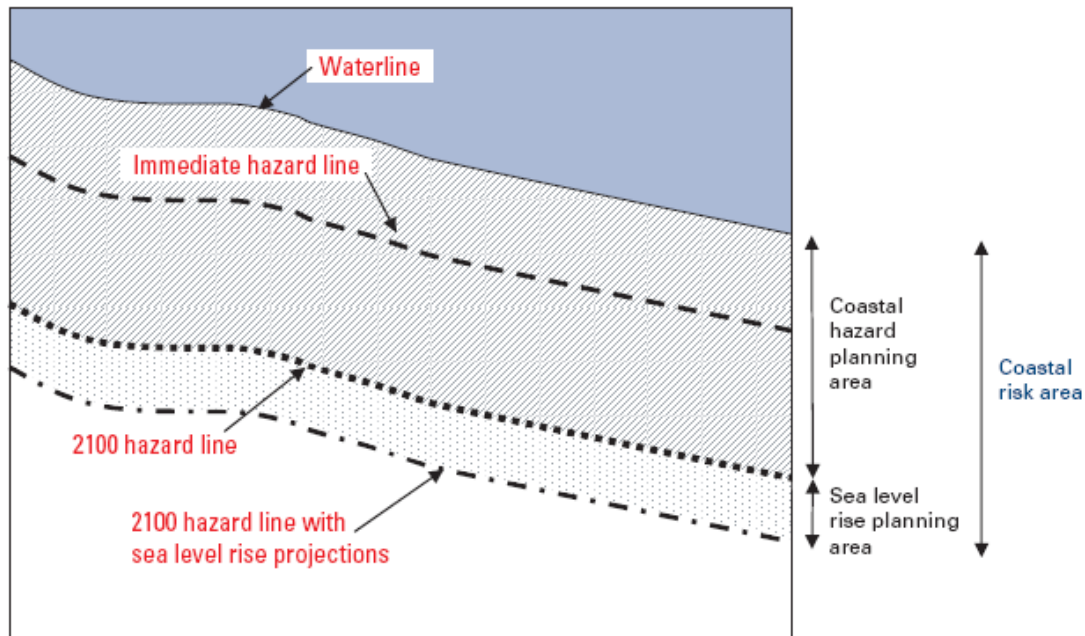
Graph 2: Mean Sea Level Rise Allowance for Asset Life



Climate Change Allowance for Asset Life – based on Mean Sea Level Rise

To allow Council to meet its legislative responsibility and reduce the impacts of climate change on residents, an additional Climate Change Allowance (CCA) is determined, (based on the asset period), to be applied to the current FPL for a development that meets the appropriate criteria.

Figure 1 – Coastal risk areas relating to coastal hazards



Nb: Coastal hazard planning areas and sea level rise planning areas are identified in coastal hazard studies undertaken in accordance with the *Coastline Management Manual* and the *draft Coastal Risk Management Guide* (DECCW, 2009a). Coastal risk area is the term used in this Guideline to identify the land covered by both the coastal hazard planning area and sea level rise planning area.

Source: Dept of Planning 2009

Examples

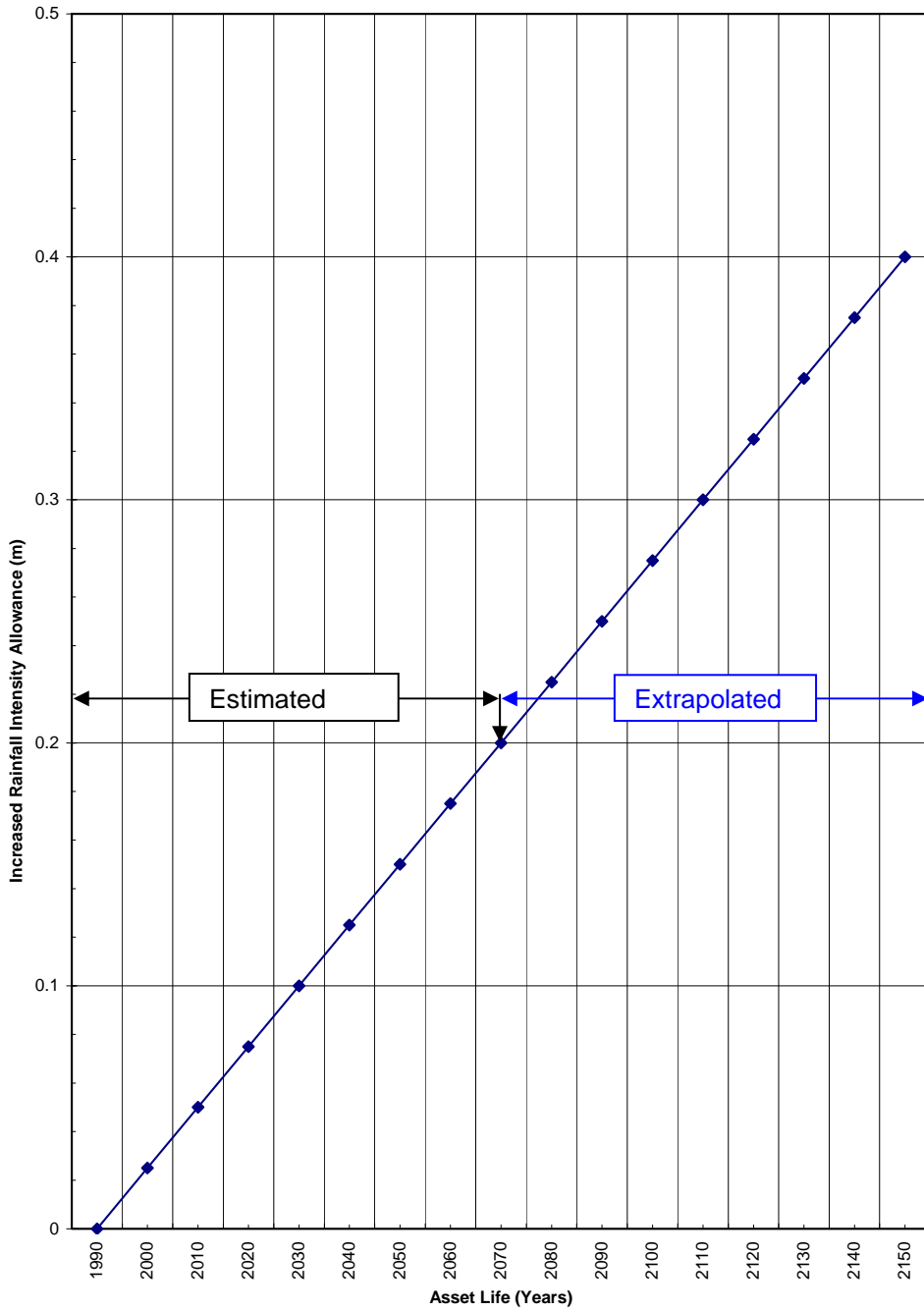
- An industrial or commercial development in Lake's hydraulic influence with 102-year Asset Period (AP) activated in 2025; Climate Change Allowance (CCA) would be applied at 1.21m.
- A new dwelling full masonry adjacent to creek but within hydraulic influence of Lake with 90-year AP activated in 2015; CCA would be applied at 0.98m (Graph-2) plus 0.28m (Graph-3A or 3B)
- An addition or extensions on coast with 35-year AP but activated in 2040; CCA would be applied at at 0.65m
- New dwelling timber framed and hardiplank on coast with 65-year AP activated in 2060; CCA @ 1.20m

Note:

- Sea level rise rates are based on DECCW's Draft Technical Note February 2009, 40cm by 2050 and 93cm by 2100
- Climate change influences and estimates rely predominantly on sea level rise and rainfall intensity estimates by government and research agencies as it is assumed that the beach berm at The Entrance will permanently fail in the medium term.
- Asset Life is the time frame within which the Asset Period coincides from a specific start date to its completion date, beyond the Asset Period.
- Ocean Properties have their FPLs determined by tidal fluctuations, wave run-up and ocean inundation. Mean Sea Level Rise Allowance relies totally only on sea level rise estimates by government and research agencies.
- Lake Properties are generally located immediately adjacent to the lakes and their FPLs are determined by the ponding influences from the lake system. It can also include those properties well upstream of Lakes and adjacent to a Creek and that have a hydraulic backwater influence from the Lake.

TECHNICAL GUIDELINES FOR ADAPTATION TO CLIMATE CHANGE

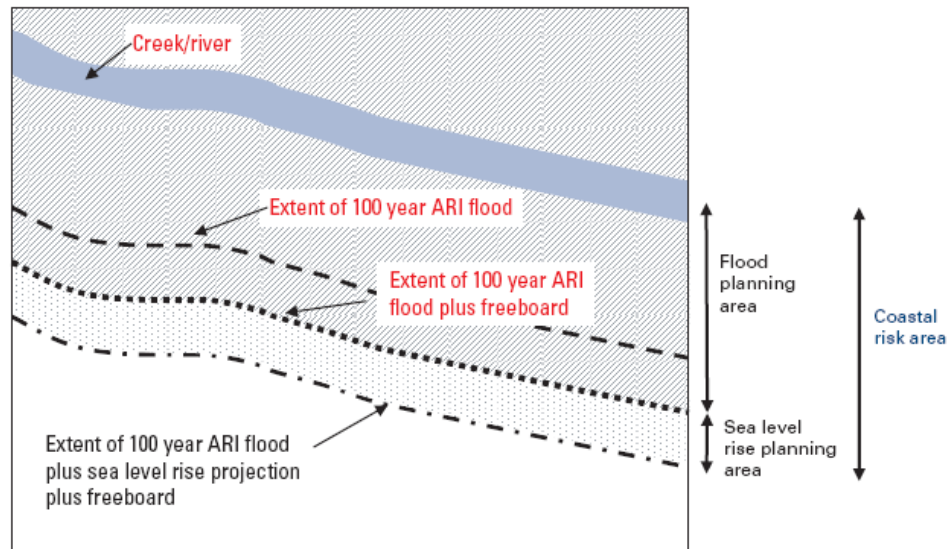
Graph 3A: Increased Rainfall Intensity Allowance for Asset Life (Generic)



Increased Rainfall Intensity (Climate Change) Allowance for Asset Life for Creeks and Rivers Generic (the Porters Creek Flood Study data is used where no specific study has been completed)

Creek Properties have their FPLs determined directly from channel and floodplain hydraulics and are located immediately adjacent to an overland flowpath, floodway, creek or river that does not have a hydraulic influence from the lakes.

Figure 2 – Coastal risk areas relating to coastal flooding



Nb: Flood planning areas and sea level rise planning areas are identified in flood studies undertaken in accordance with the *Floodplain Development Manual* and the draft *Flood Risk Management Guide* (DECCW, 2009b). Coastal risk area is the term used in this Guideline to identify the land covered by both the flood planning area and sea level rise planning area.

Source: Dept of Planning 2009

Examples

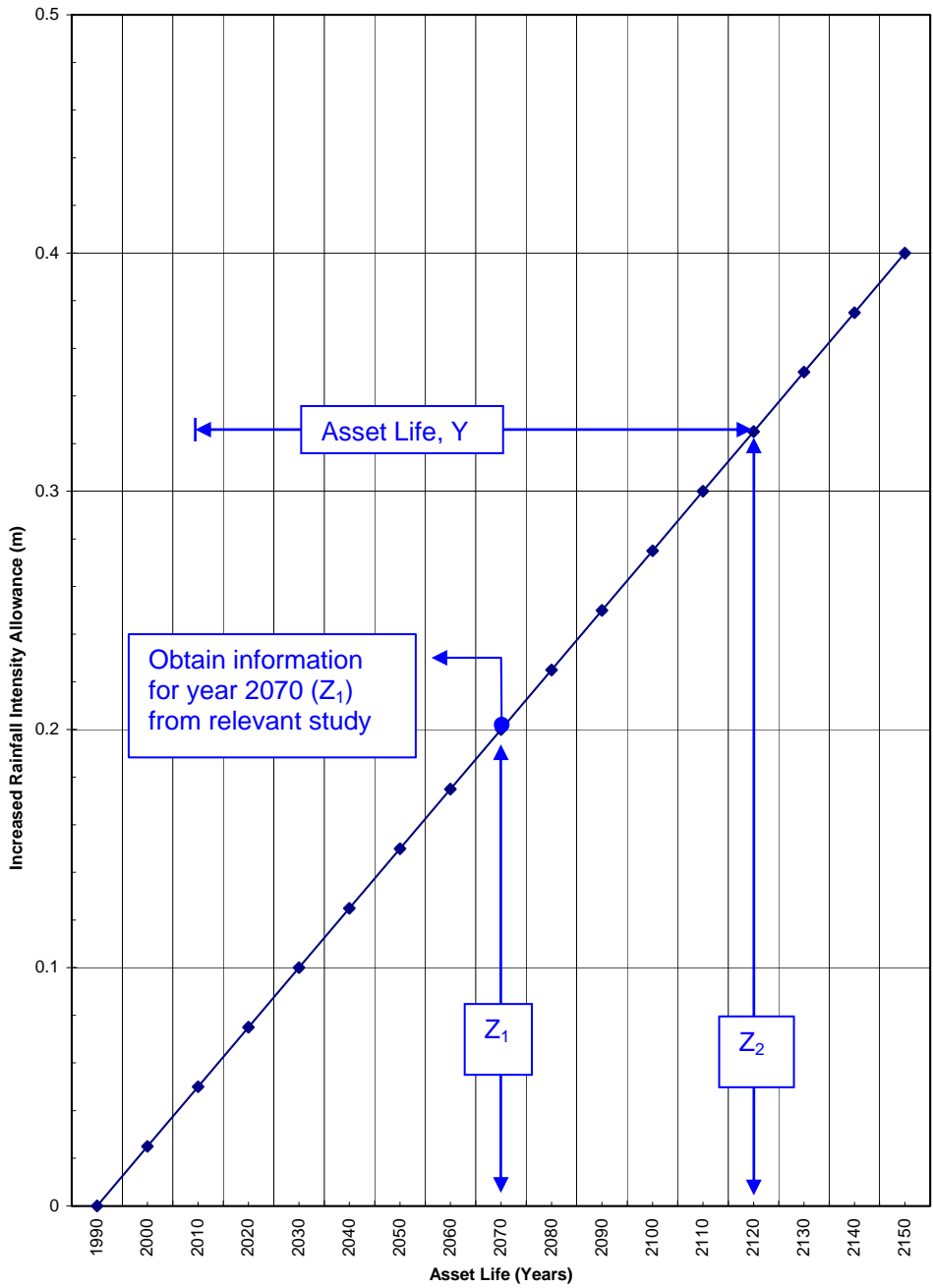
- A subdivision adjacent to creek system with 115-year AP but activated immediately; would apply a CCA of 0.34m.
- An industrial or commercial development in creek's hydraulic influence with 100-year AP activated in 2015; 0.32m.
- A new dwelling full masonry adjacent to creek but within hydraulic influence of Lake with 90-year AP activated in 2015; would apply a CCA of 0.98m (Graph-2) plus 0.28m (Graph-3A or 3B)

Note:

- Rainfall intensity increases of 30% by 2070 based on DECCW's Practical Consideration of Climate Change - October 2007
- Climate change influences and estimates rely predominantly on sea level rise and rainfall intensity estimates by government and research agencies as it is assumed that the beach berm at The Entrance will permanently fail in the medium term.
- Creek flood level rise average of 200mm by 2070 based on 30% increase in 1% AEP design rainfall intensity from Porters Creek Flood Study
- Asset Life is the time frame within which the Asset Period coincides from a specific start date to its completion date, beyond the Asset Period.

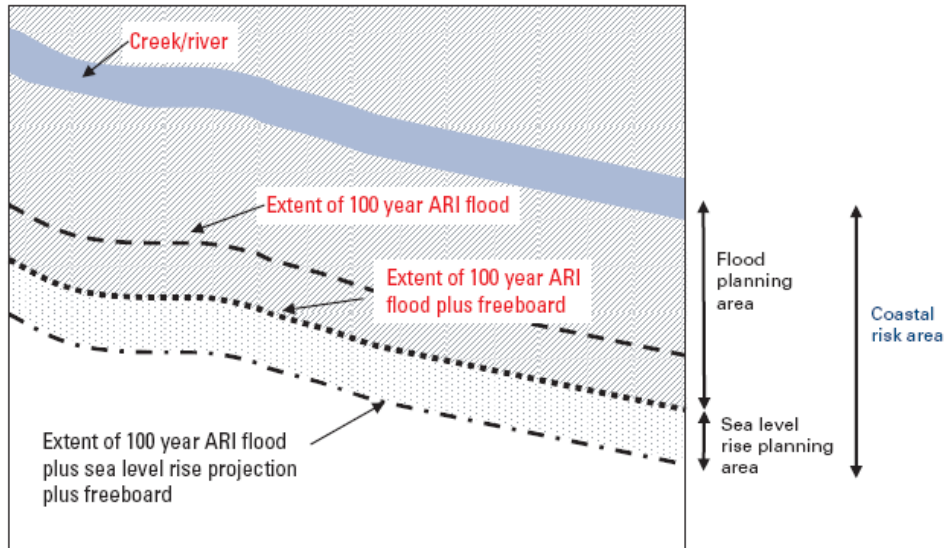
TECHNICAL GUIDELINES FOR ADAPTATION TO CLIMATE CHANGE

Graph 3B: Increased Rainfall Intensity Allowance for Asset Life
(Flood Study Available with Climate Change information)



Increased Rainfall Intensity (Climate Change) Allowance for Asset Life for Creeks and Rivers (where a specific Flood Study provides climate change information)

Figure 2 – Coastal risk areas relating to coastal flooding



Nb: Flood planning areas and sea level rise planning areas are identified in flood studies undertaken in accordance with the *Floodplain Development Manual* and the draft *Flood Risk Management Guide* (DECCW, 2009b). Coastal risk area is the term used in this Guideline to identify the land covered by both the flood planning area and sea level rise planning area.

Source: Dept of Planning 2009

Example

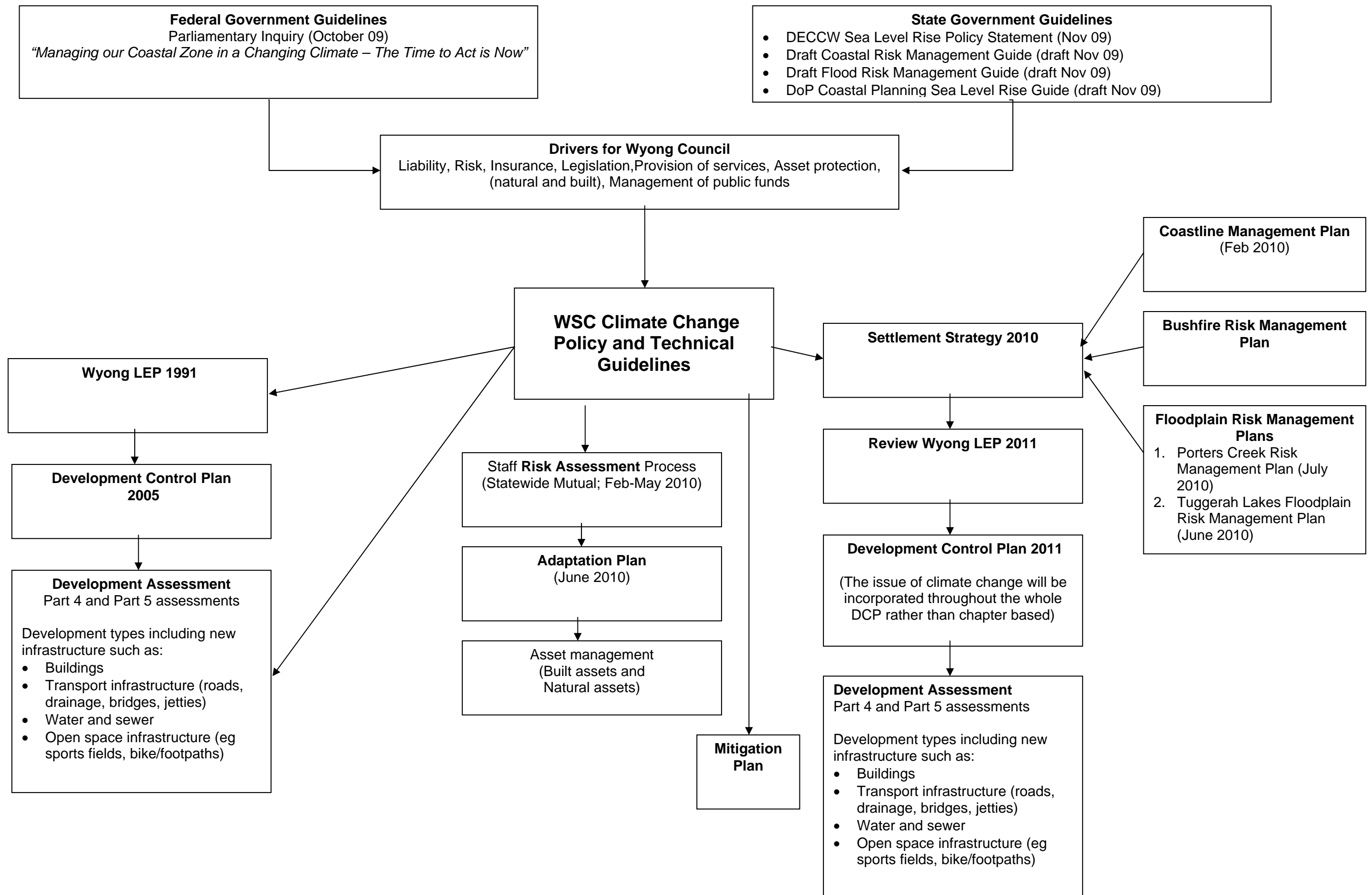
A development with an estimated cost of \$900,000 will be built in 2010. Graph 1 indicates an equivalent asset period as 105 years. The length of time between year 1990 and 2010 (year application made) is 20. At year 2070, the increased rainfall intensity allowance based on the flood study is 0.20 metres. The climate change allowance due to increased rainfall intensities to the end of the asset life is calculated by:

$$= \frac{0.2 \text{ metres}}{(2070 - 1990) \text{ years}} \times (105 + 20) \text{ years} = 0.3125 \text{ metres}$$

Note:

- 1) Rainfall intensity increases of 30% by 2070 based on DECCW's Practical Consideration of Climate Change October 2007
- 2) Climate change influences and estimates rely predominantly on sea level rise and rainfall intensity estimates by government and research agencies as it is assumed that the beach berm at The Entrance will permanently fail in the medium term.
- 3) Creek Properties have their FPLs determined directly from channel and floodplain hydraulics and are located immediately adjacent to an overland flowpath, floodway, creek or river that does not have a hydraulic influence from the lakes.
- 4) In absence of increase in rainfall intensity information beyond 2070, increased rainfall intensity allowance obtained from flood study is to be linearly extrapolated to the year to which the asset life has been determined

Attachment 3 - Flowchart representing the key “framework” surrounding Council’s Climate Change Policy



CLIMATE CHANGE POLICY

Attachment 4

Examples of how the Climate Change Policy would be implemented.

Projected climate change impacts will increase flood levels and flood extents in coastal waterways, with this effect generally diminishing with distance upstream from the coast. Climate change will potentially add both a level for sea level rise as well as increases in flood volume and changes to flood frequency from increased rainfall intensity and changes to rainfall patterns.

Figure 2 below is an extract from State Government's recently released Draft Flood Risk Management Guide: Incorporating sea level rise benchmarks in flood risk assessments. It should be noted that, in addition to the current risk associated with development within the Flood Planning Level (which incorporates the 1 in 100 year ARI flood plain level plus a freeboard of usually 0.5 metres), a new area, termed the "sea level rise planning area" will emerge. Proposed development within this area will also come under this policy.

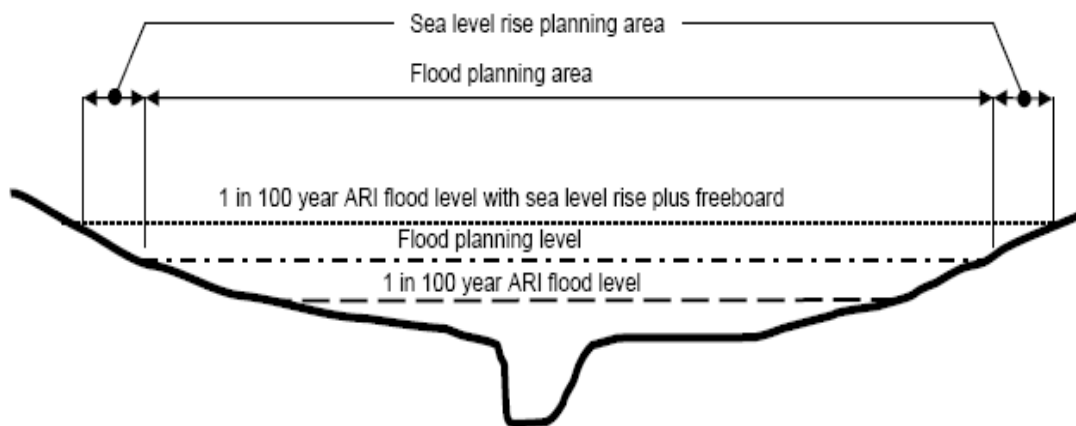


Figure 2 Flood levels and planning areas (cross-section view)

Worked Examples

Planning

Under the Policy, strategies, masterplans and rezonings, etc. are required to use a minimum 100 year time frame when considering the potential impacts of Climate Change. In this instance, any proposed strategy, masterplan or rezoning or part thereof within the "sea level rise planning area" would be affected.

The implication for any new proposals within the "sea level rise planning area" is that an additional Climate Change allowance (CCA) will need to be added to the flood planning level (Section 1.3 and 1.4 of the Policy).

In low lying areas surrounding the lake, such as those areas within the Toukley Strategy, adaptive measures will need to be considered to address future climate change flood planning levels. These measures will include applying alternate land use zones, additional zone objectives, principle development standards (e.g. minimum subdivision size), additional LEP provisions (e.g. use of foreshore building line), specific development provisions within a DCP, public resumption of land or protection options.

Inundation

Example 1

A private commercial or industrial development proposal lodged today that lies within the “sea level rise planning area” around the lake as determined under the risk assessment procedure will require a new flood planning level that includes a CCA to account for sea level rise over time. Note: the sea level rise for the Tuggerah Lakes is considered to be approximately the same as for open seas and will usually remain some 0.2 metres above the mean sea level.

The CCA allowance is determined by assessing the asset period from the approximate cost of the proposal (see Graph 1 Cost vs Asset Period in the **Technical Guidelines**). A \$900 000 proposed development would have a 100 year asset period. This asset period equates to a CCA of 1.04 metres (Graph 2 of the **Technical Guidelines**). Consequently, for the proposed development to address the potential impacts of climate change it would need to be raised to allow for a new Flood Planning Level 1.04 metres above that stipulated for the current 1 in 100 year AEP flood level plus freeboard for the site.

Example 2

A private development proposal for a new dwelling lodged to day that lies within the floodplain of a river and above the influence of sea level rise as determined under the risk assessment procedure will require a new flood planning level that includes a CCA to address the potential increase in flood levels due to increased rainfall intensity over time. Porters Creek catchment would be such an area.

The CCA allowance is determined by assessing the asset period from the approximate cost of the proposal (see Graph 1 Cost vs Asset Period in the **Technical Guidelines**). A \$150 000 proposed dwelling development would have a 60 year asset period. This asset period equates to a CCA of 0.2 metres (Graph 3A of the **Technical Guidelines**). Consequently, for the proposed development to address the potential impacts of climate change the subject land would need to be raised to provide a new Flood Planning Level 0.2 metres above that stipulated for the current 1 in 100 year AEP flood level plus freeboard for the site.

Example 3

Should a risk assessment indicate that the subject land comes within an area vulnerable to both sea level rise and increased flooding from increased rainfall intensity, then the CCA should include an allowance for both sea level rise (as determined from Graph 2 of the **Technical Guidelines**) and increased rainfall intensity (as determined from Graph 3A of the **Technical Guidelines**). For example, development proposals adjacent to both Tuggerah Lake and the Wyong River or Ourimbah Creek would fall into this category.

Coastline

Council’s current DCP 2005 Chapter 77 Coastal Hazards delineates an immediate or very high hazard erosion zone for the dunes, beaches or bluffs where no development or improvements to dwellings can occur. Further west of this line development can occur in the high hazard zone (0-50 years) or the medium hazard zone (50 – 100 years) but is subject to development controls that address the hazard.

The Policy requires that proposed new development, modifications or additions landwards of the current erosion or immediate high hazard line should not be located seawards of a hazard line as determined equivalent to the Asset Period (see Graph 1 Cost vs Asset Period in the **Technical Guidelines**) for that new development, modification or addition, i.e. the new development should be located landwards of the hazard line equivalent to the Asset Period.

In essence, this precludes development commensurate with the current DCP 2005 Chapter 77 but allows development outside the area affected by the current erosion or high hazard lines to be commensurate with the risk posed by climate change over time, i.e. it does not sterilise land before it is necessary should coastal retreat occur as predicted.

For example, a house with an Asset Period of 70 years should be located outside the 70 year hazard line. Similarly, a smaller structure such as a deck, with an Asset Period of 15 years, could be located immediately outside the 15 year hazard line. The 70 and 15 year hazard lines can be interpolated between the current 0, 50 and 100 year hazard lines until additional hazard lines are formulated as part of the CMP process. This has the effect of not sterilising land until it is necessary on the basis of rising sea levels.

Where development is located immediately adjacent or within proximity to a hazard line equivalent to the development's Asset Period then the development could potentially be affected by the impacts of climate change soon after the Asset Period is realised. In such cases, the consent should be time limited to the Asset Period. This is also a departure from current practice.

When the asset period expires the time limited condition should be reassessed. Consent should be extended in time if the rate of coastal retreat due to climate change is less than projected at the time of the original consent. Should the rate of coastal retreat be equal to that predicted then the dwelling should be relocated, repositioned or demolished. In this regard the recently released State Government policies and draft guidelines (as per list under Legislative Requirements) clearly indicate that the responsibility and the cost for activity such as relocation, demolition and abandonment of a property lie clearly with the landholder

5.1 Granting of Additional Easements for Access over Council Land at Ourimbah and Tumbi Umbi

TRIM REFERENCE: F2009/00131 - D02070166

AUTHOR: JT

SUMMARY

Approval is sought to grant easements to EnergyAustralia for access over Council land at Ourimbah and Tumbi Umbi.

RECOMMENDATION

- 1 ***That Council grant easements to Energy Australia for access over Council land to existing easements.***

The easements to be over Lot 6 DP 241138 Brush Road, Ourimbah, Lot 2 DP 700153 21 Leetes Lane, Tumbi Umbi and Lot 101 DP 790685 19 Leetes Lanes, Tumbi Umbi.

- 2 ***That Council authorise the Common Seal of Wyong Shire Council to be affixed to related documents as required.***

- 3 ***That Council authorise the Mayor and the General Manager to execute all documents relating to the grant of easements between Wyong Shire Council and EnergyAustralia.***

BACKGROUND

Energy Australia proposed to construct a new 132kv transmission line to upgrade electricity infrastructure in the area. The new transmission line would deliver power to a new substation being constructed by EnergyAustralia to supply electricity to the growing Central Coast community.

At its Ordinary Meeting held on 25 February 2009, Council resolved to grant various easements for transmission lines, access and licences for access over various parcels of Council land.

The transmission line had been designed to fit mainly within an existing easement corridor extending from Ourimbah to Tumbi Umbi, however some new easements and rights of access will be required on Council land to support the new line.

THE PROPOSAL

EnergyAustralia has revised the scope of its project and approval is now sought to grant new easements to the company for permanent access over Council land at Ourimbah and Tumbi Umbi instead of the temporary arrangements previously authorised.

Council owned land at Lot 2 DP 700153, 21 Leetes Lane, Tumbi Umbi and Lot 101 DP 790685, 19 Leetes Lane, Tumbi Umbi are affected by the route of the transmission lines. EnergyAustralia will require permanent access over the land, instead of the temporary access granted by Council at its previous Meeting, to enable access to the existing easement by construction vehicles.

Lot 2 DP 700153 21 Leetes Lane, Tumbi Umbi is zoned 7(a) Conservation and is classified Community Land for Natural Areas. The existing easement is 2,891m². The permanent access is required over an existing track having an area of approximately 549.5m².

5.1 Granting of Additional Easements for Access over Council Land at Ourimbah and Tumbi Umbi (contd)

EnergyAustralia has advised that additional clearing will not be necessary except for removal of any fallen trees or overhanging limbs.

Lot 101 DP 790685 19 Leetes Lane, Tumbi Umbi is zoned 7(a) Conservation and is classified Operational Land, Visually Significant. The permanent access is required over an existing track having an area of approximately 453.5m². EnergyAustralia has advised that additional clearing will not be necessary except for removal of any fallen trees or overhanging limbs.

Council owned land at Lot 6 DP 241138 Brush Road, Tumbi Umbi is affected by the route of the transmission lines. EnergyAustralia will require permanent access over the land, in addition to the easement granted by Council at its previous Meeting.

Lot 6 DP 241138 Brush Road, Tumbi Umbi is zoned 6(a) Open Space and Recreation and is classified Community Land for Natural areas. The permanent access is required adjacent to an existing easement for transmission line and is approximately 443m².

EnergyAustralia has advised that it will pay reasonable compensation and survey, valuation and legal costs associated with the grant of the easements.

OPTIONS

Council has the option to:

- Approve the proposed easements, or
- Refuse the proposed easements.

If Council approves the grant of the easements, the impact on Council land is considered minor. Council has no plans for alternate use of the land. Granting the easements will allow EnergyAustralia to proceed with the construction of the transmission line which is mainly within an existing easement corridor.

Should Council refuse the granting of the easements, EnergyAustralia has rights under Section 45 of the Electricity Supply Act 1995 which provides:

- (2) *For the purpose of exercising its functions under this or any other Act or law, a network operator:*
- (a) *may carry out work to which this section applies, and*
 - (b) *in particular, may carry out any such work on a public road or public reserve.*
- (3) *Work to which this section applies is exempt from the requirement for an approval under the Local Government Act 1993 except in relation to buildings.”*

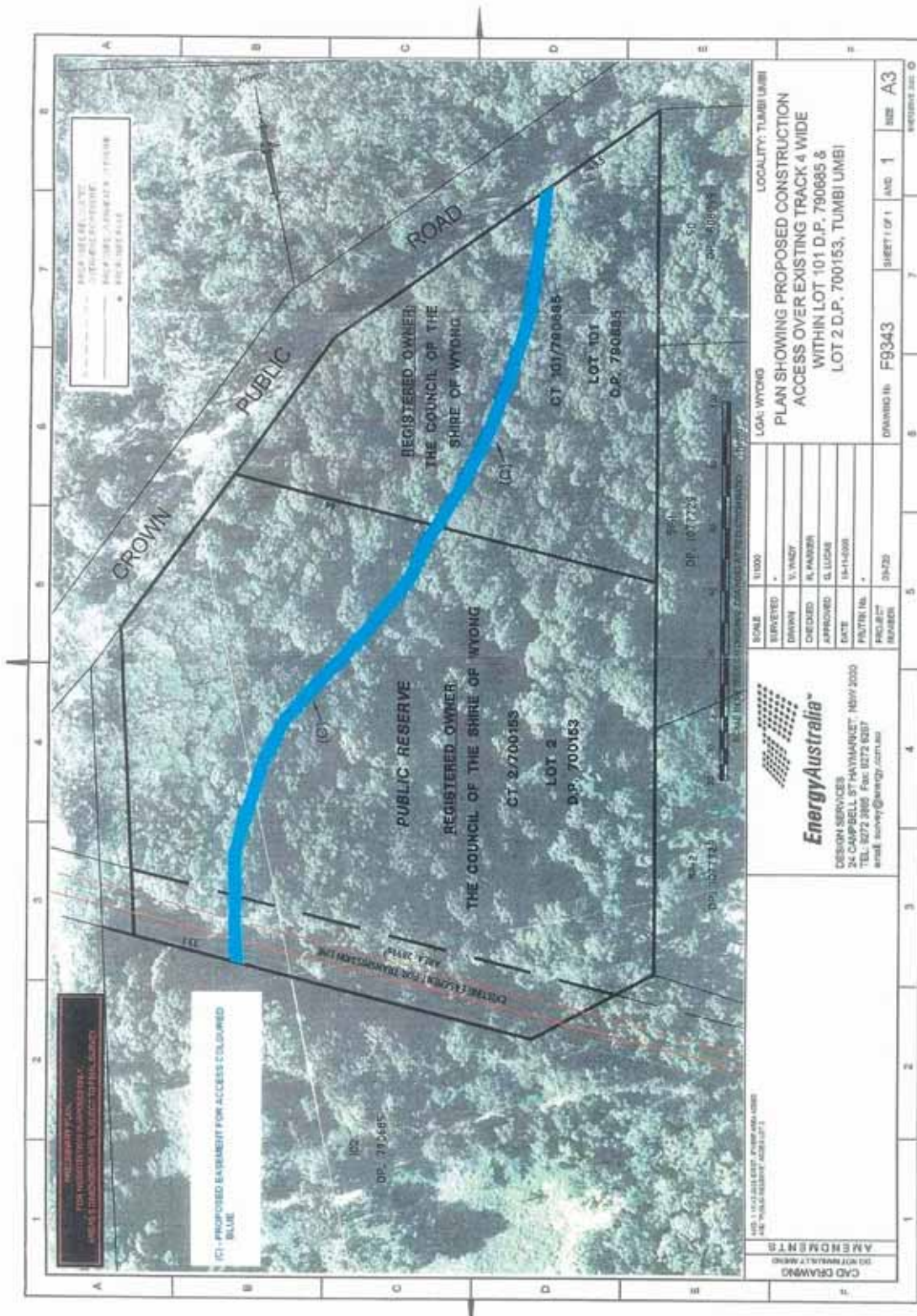
CONSULTATION

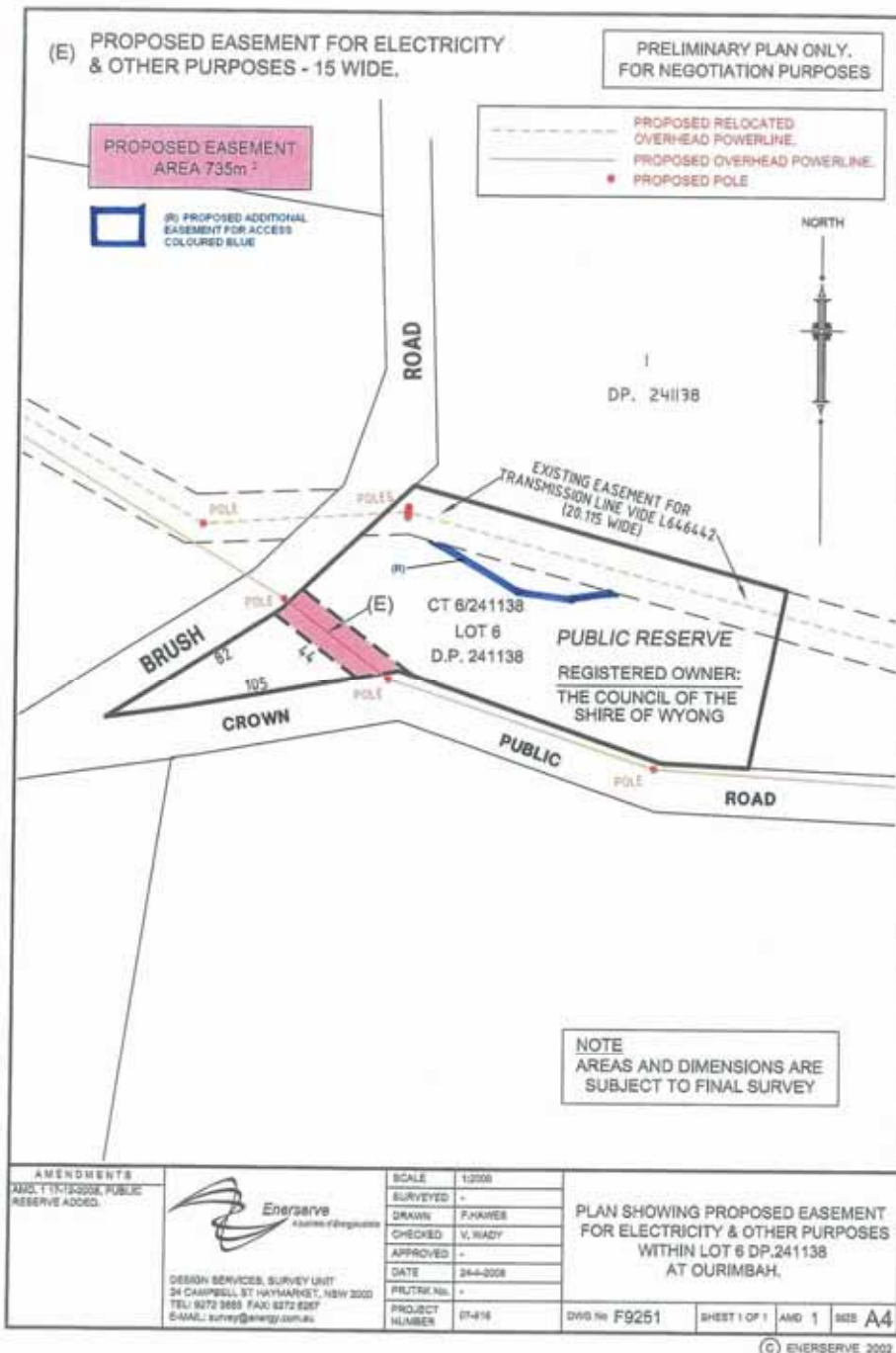
EnergyAustralia has approached Council in order to obtain the easements and has agreed to pay compensation as assessed by a valuer. Subject to Council's approval, the easements will be formalised prior to the commencement of the work.

GOVERNANCE

There is no impediment to the grant of the easements over Operational Land.

In relation to Community Land, Plan of Management No 10 for Natural Areas authorises the grant of easements in the circumstances.





CONCLUSION

Granting the easements to EnergyAustralia will benefit the Wyong community by facilitating the construction of the new transmission line and substation. Council’s approval is required to ensure that the legal requirements are satisfied in relation to the ownership and use of the land concerned.

ATTACHMENTS

Nil.

6.1 Contract CPA 171473 - Estuary Management Plan - Stormwater Treatment Works Project - Loxley Close, Berkeley Vale

TRIM REFERENCE: CPA/171473 - D02083418

AUTHOR: JR

SUMMARY

Evaluation and selection of lump sum tenders for Contract CPA/171473 - Estuary Management Plan – Stormwater Treatment Works Project – Loxley Close, Berkeley Vale.

RECOMMENDATION

- 1 That Council accept Tender No 2 from Scape Constructions Pty Ltd in the lump sum amount of \$203,350.00 (excl GST)**
- 2 That Council approve a contract budget of \$233,350.00 (excl GST) that provides for a contingency amount of \$30,000.00 (excl GST) representing approximately 15% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

BACKGROUND

Council through its Estuary Management Unit is implementing the Tuggerah Lakes Estuary Management Plan. The Plan involves a number of projects over the next five years within the catchment of the Lakes, enabling the improvement of water quality and foreshore ecology in Tuggerah Lake, Budgewoi Lake and Lake Munmorah.

As part of this Plan stormwater treatment works were identified at Loxley Close, Berkeley Vale. The works consist of the installation of a Gross Pollutant Trap, floodgate and the rehabilitation of the drainage channel. Also included is an independent peer review of the work to be progressively undertaken by a recognised environmental scientist.

Design solutions were developed for this project being cognisant of Council's Draft 'Water Sensitive Urban Design (WSUD) Management Guidelines' that take into account sustainability.

The principal objectives of this contract are:

- 1 Protect the environment throughout the life of the project.
- 2 Construct the works in a way that ensures the desired outcome is achievable without causing further damage to the environment.
- 3 Control the amount, quality and speed of stormwater that is reaching and eroding streambanks.
- 4 Improve the quality of stormwater entering the Tuggerah Lakes Estuary.
- 5 Improve the water quality of the Tuggerah Lakes.
- 6 Improve the riparian zone ecology.

The environmentally sensitive nature of these works necessitate that time cannot be the over-riding criterion during the delivery process.

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 20 October 2009 and the Central Coast Express Advocate on 21 October

6.1 Contract CPA 171473 - Estuary Management Plan - Stormwater Treatment Works Project - Loxley Close, Berkeley Vale (contd)

2009. Tenders were also advertised on Council's e-Tender site. The advertised closing date was 12 November 2009.

The invitation documents called for lump sum tenders based on a detailed specification and suite of supporting documentation.

The following addenda were issued to all prospective tenderers during the invitation period.

- 1 Returnable Schedules Issued (15 October 2009).
- 2 Confirmation of NSW Legislation (27 October 2009) regarding – Spoil Classification – EPA Act.
- 3 Alterations to the specification (27 October 2009) due to the requirement to provide Peer Review Environmental Management Measures.
- 4 Response to tender queries (30 October 2009).
- 5 The issue of further information referenced in Addendum No 4.

Tenders closed at Council Chambers at 2.00pm on 12 November 2009.

EVALUATION OF TENDERS

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

Threshold Criteria:

- Compliance with Tender documents, including lodgement of tender by specified time.
- Ability to manage financial, environmental, operational and safety risks.
- An Environmental Management System.

Weighted Criteria:

- Conformity with Brief / Specification.
- Proposed methodology / construction program / environmental management.
- The tendered price and structure as well as any other potential costs to Council that may be identified.
- Experience in the specific field.

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

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

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- Detailed weighted evaluation of shortlisted tenders.
- Due diligence checks on preferred tenderers.
- Independent review of the tender selection process.

Assessment of Receipt

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

Tender No	Tender	Tendered Lump Sum (Ex GST)	Status
1	Environmental Land Contracting Pty Ltd.	\$211,668.00	Submitted on time.
2	Quality Management Constructions Pty Ltd	\$379,840.00	Submitted on time.
3	Scape Constructions Pty Ltd	\$203,350.00	Submitted on time.

Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements, including the specification. Tender No 1 (from Environmental Land Contracting), Tender No 2 (from Quality Management Constructions) and Tender No 3 (from Scape Constructions) conformed to all requirements and were progressed to the next stage of evaluation.

Weighted Evaluation

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

Tender No	Tender	Tendered Lump Sum (Ex GST)	Weighted Evaluation Score
2	Scape Constructions Pty Ltd	\$203,350.00	87
1	Environmental Land Contracting Pty Ltd.	\$211,668.00	86
3	Quality Management Constructions Pty Ltd	\$379,840.00	50

Tender No 2 (from Scape Constructions), being the highest scoring tender and with the lowest tendered price was progressed to the due diligence stage of the evaluation.

Due Diligence

Tender No 2 (from Scape Constructions) was subjected to a financial assessment, an in-house safety and environmental system assessment and referee checks.

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

Scape Constructions is a contractor with a history of successfully completed contracts similar in nature and scope to the current works. The company has in place a comprehensive, well-documented Occupational Health, Safety and Rehabilitation Management System and Environmental Management system.

The amount tendered by Scape Constructions is within 9% of Council's pre-tender estimate and is considered to represent a reasonable price for the contract works.

Process Review

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

RISK ASSESSMENT

General

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken, for example, design work versus construction work and the type of contract.

Lump Sum versus Schedule of Rates

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

Contract Risks

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

Generic Risks

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

Specific Risks Leading to Contract Variations

The following are the major risks that Council bears in relation to this contract:

- The quality of the design is sub-standard resulting in additional costs during the construction phase. Mitigated by appropriate technical reviews by others to ensure design meets requirements.
- Changes to regulatory design standards requiring project re-design. Mitigated by using latest information in tender documents and minimising delays in award of contract.

Risk Contingency

The above risks are considered to be Moderate for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$30,000.00 (excl GST) representing approximately 15% of the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a high probability that the project budget of \$233,350.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

BUDGET

Funding: Estuary Management Unit

The total project budget assigned to this Stormwater Treatment Works Project is \$240,000.00 coming from the Waterways Environmental Levy.

Although the value of the contract is \$203,350.00 the actual value will depend on the quality of design documentation and the administration of the contract over the life of the works. The total amount of the contract as defined could therefore vary marginally during the execution of the works.

TIME-FRAME

It is expected that the works will be completed within three months of commencement. Scape Constructions Pty Ltd has advised it can mobilise within three weeks of contract award.

APPROVALS

All necessary approvals for the works have been obtained.

LOCAL CONTENT

Scape Constructions is an Erina based company. The tenderer has indicated that the contract works are expected to generate approximately 30 person-weeks of labour requirements and that all labour resources to be employed on the project will be sourced from the Central Coast region.

The application of the Local Preference policy adopted by Council at the Ordinary Meeting of 25 November 2009 would not make any difference to the recommended tenderer in this instance.

CONCLUSION

Tender No 2 from Scape Constructions Pty Ltd is the highest scoring tender and meet all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that the tender be accepted.

ATTACHMENTS

Nil.

6.2 Contract CPA 158359 - Ourimbah Rural Fire Station - Building Construction

TRIM REFERENCE: CPA/158359 - D02083681

AUTHOR: KG

SUMMARY

Evaluation and selection of lump sum tenders for Contract CPA/158359 – Ourimbah Rural Fire Station – Building Construction.

RECOMMENDATION

- 1 That Council accept the Tender No 8 from GWH Construction (NSW) Pty Ltd for the lump sum amount of \$378,000.00 (excl GST).**
- 2 That Council approve a contract budget of \$416,000.00 (excl GST) that provides for a contingency amount of \$38,000.00 (excl 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.**
- 3 That Council provide \$250,000.00 funding for the project which the Rural Fire Service advise will be reimbursed when their grant funding becomes available.**

BACKGROUND

The Rural Fires Act 1997 requires Council to provide adequate facilities to enable the Rural Fire Service (RFS) to carry out its role within the Wyong Shire Rural Fire District. These facilities must be to a standard as approved by the Rural Fire Service Commissioner.

Over recent years Council has received numerous requests from the RFS, local parliamentary members and the community, for the provision of adequate facilities at Ourimbah. The existing facility at Yates Road, Ourimbah is too small to house the appliances necessary to service its fire district. The relatively small size of the property means that it is not possible to extend the existing premises. The provision of adequate facilities requires relocation to a larger parcel of land and constructing a new building. Options for using or disposal of the old RFS building and land at Ourimbah will be the subject of a future report to Council.

A report addressing these issues was considered at the Ordinary Meeting of 14 May 2008. Council resolved to make available land contained within Lots 6 and 19 DP 22433 Ourimbah Creek Road for the construction and operation of a new Ourimbah Rural Fire Station. Actions have been taken to address Council's resolutions.

Council day labour staff have now undertaken preliminary earthworks consisting of cut and fill to level the site, construction of a retaining wall and preliminary drainage works, to prepare the site for construction of the building. Following construction of the building by contract, day labour staff will finalise the civil works consisting of the access, paved areas, kerb and gutter and finalisation of the drainage works.

Rural Fire Fighting Standards require that a Category 3 Station is required at the site which provides for the storage of three items of plant, as well as other standard facilities for the volunteers. The building provides a garage space of approximately 180 square metres for

6.2 Contract CPA 158359 - Ourimbah Rural Fire Station - Building Construction (contd)

three fire tenders. Adjacent office accommodation, of approximately 110 square metres, provides an administration office, training room, kitchen, bathroom and locker room facilities.

The garage framework is of galvanised steel with colourbond roof and wall cladding. The office accommodation is of standard timber frame construction with colourbond roof and wall cladding.

This contract report relates only to construction of the building and its connection to water, sewerage, drainage and electricity.

TENDER PROCESS

Tenders were invited by way of public invitation on the e-tendering web site operated by NSW Public Works. Advertisements were placed in the Sydney Morning Herald on 18 August 2009 and the Central Coast Express Advocate on 19 August 2009. The advertised closing date was 10 September 2009. The closing date was extended to 17 September 2009 to allow tenderers sufficient time to respond to clarifications provided in Addendum 2 issued on 3 September 2009.

The invitation documents called for lump sum tenders, based on a detailed specification.

The following addenda were issued to all prospective tenderers during the invitation period:

- Addendum 1. (18 August 2009), corrected an inconsistency in the tender documents in relation to the tender closing date.
- Addendum 2. (3 September 2009) provided clarification of a number of minor matters within the specification. The addendum provided for an extension to the tender closing period by one week to allow tenderers time to make any amendments to their tender as a result of these clarifications.

Tenders closed at 2.00pm on 17 September 2009.

EVALUATION OF TENDERS

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

Threshold Criteria:

- Compliance with the tender documents.
- Ability to manage financial, environmental, operational and safety risk.

Weighted Criteria:

- Conformity with Brief / Specification.
- Proposed methodology / resourcing.
- The tendered price and structure.
- Company / staff experience.

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

6.2 Contract CPA 158359 - Ourimbah Rural Fire Station - Building Construction (contd)

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

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- Short listing of tenders.
- Detailed weighted evaluation of shortlisted tenders.
- Due diligence and financial checks on preferred tenderers.

Assessment of Receipt

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

Tender No	Tender Name	Tendered Lump Sum Price (Ex GST)	Status
1	AXIS Building Group Pty Ltd	\$493,046.00	Received on Time
2	Babic Construction Pty Ltd	\$451,732.60	Received on Time
3	Bilas Knight Pty Ltd	\$486,535.00	Received on Time
4	BJC Building Development	\$478,779.00	Received on Time
5	Cape View Developments Pty Ltd	\$425,757.95	Received on Time
6	Club Construction Newcastle	\$496,000.00	Received on Time
7	GW Building Pty Ltd	\$449,000.00	Received on Time
8	GWH Construction Pty Ltd	\$378,000.00	Received on Time
9	Inaphase Pty Ltd	\$413,397.00	Received on Time
10	Maincon Pty Ltd	\$481,250.00	Received on Time
11	Milleen Construction	\$475,786.00	Received on Time
12	Nace Civil Engineering Pty Ltd	\$496,043.89	Received on Time
13	LA Commercial Pty Ltd	\$389,558.00	Received on Time
14	O'Carroll Constructions Pty Ltd	\$507,000.00	Received on Time
15	RTC Commercial Pty Ltd	\$592,113.00	Received on Time
16	Tri Group Investments Pty Ltd	\$583,586.24	Received on Time
17	Truway Group	\$597,863.00	Received on Time

Assessment of Conformance of Tenders

All of the tenders contained various qualifications. However, none contained qualifications that were significant enough to warrant the elimination of any one tender from the next stage of evaluation.

Shortlisting Based on Price

All tenders were progressed to an assessment of relative price in order to develop a shortlist for a weighted evaluation assessment.

The following tenders are presented in ascending order of price.

Tender No	Tender Name	Tendered Lump Sum Price (Ex GST)
8	GWH Construction Pty Ltd	\$378,000.00
13	LA Commercial Pty Ltd	\$389,558.00
9	Inaphase Pty Ltd	\$413,397.00
5	Cape View Developments Pty Ltd	\$425,757.95
7	GW Building Pty Ltd	\$449,000.00
2	Babic Construction Pty Ltd	\$451,732.60
11	Milleen Construction	\$475,786.00
4	BJC Building Development	\$478,779.00
10	Maincon Pty Ltd	\$481,250.00
3	Bilas Knight Pty Ltd	\$486,535.00
1	AXIS Building Group Pty Ltd	\$493,046.00
6	Club Construction Newcastle	\$496,000.00
12	Nace Civil Engineering Pty Ltd	\$496,043.89
14	O'Carroll Constructions Pty Ltd	\$507,000.00
16	Tri Group Investments Pty Ltd	\$583,586.24
15	RTC Commercial Pty Ltd	\$592,113.00
17	Truway Group	\$597,863.00

Based on the prices received the following tenders offered prices that are not considered to represent value for money for Council as they are significantly higher than six tenders who have offered competitive prices. Regardless of how these tenders rated on non-price criteria the substantial price difference would make it virtually impossible for any of these tenders to rate as the preferred option after a full weighted evaluation. As such no consideration was given to the following tenders:

Tender No	Tender
11	Milleen Construction
4	BJC Building Development
10	Maincon Pty Ltd
3	Bilas Knight Pty Ltd
1	Axis Building Pty Ltd
6	Club Construction Newcastle
12	Nace Civil Engineering Pty Ltd
14	O'Carroll Constructions Pty Ltd
16	Tri Group Investments Pty Ltd
15	RTC Commercial Pty Ltd
17	Truway Group

The following tenders were considered suitable to progress to a weighted evaluation.

Tender No	Tender	Tendered Lump Sum Price (Ex GST)
8	GWH Construction Pty Ltd	\$378,000.00
13	LA Commercial Pty Ltd	\$389,558.00
9	Inaphase Pty Ltd	\$413,397.00
5	Cape View Developments Pty Ltd	\$425,757.95
7	GW Building Pty Ltd	\$449,000.00
2	Babic Construction Pty Ltd	\$451,732.60

Weighted Evaluation

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

6.2 Contract CPA 158359 - Ourimbah Rural Fire Station - Building Construction (contd)

Tender No	Tender	Tendered Lump Sum Price (ex GST)	Weighted Evaluation Score
8	GWH Construction Pty Ltd	\$378,000.00	86
9	Inaphase Pty Ltd	\$413,397.00	82
13	LA Commercial Pty Ltd	\$389,558.00	74
2	Babic Construction Pty Ltd	\$451,732.60	73
5	Cape View Developments Pty Ltd	\$425,757.95	71
7	GW Building Pty Ltd	\$449,000.00	66

Tender No 8 (from GWH Construction Pty Ltd), is the lowest priced tender and also scored the highest of all tenders on the non – price elements. As the overall highest scoring tender GWH Construction Pty Ltd was the preferred tender and was progressed to the due diligence stage of the evaluation.

Due Diligence

GWH Construction Pty Ltd was subjected to a financial assessment, an in-house safety/environment system assessment and referee checks.

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

GWH Construction Pty Ltd has a history of successfully completed contracts similar in nature and scope to the current works. The company has recently undertaken construction of the Buttonderry Waste Management Facility for Council and carried out the work to a satisfactory standard.

The company has in place fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

The amount tendered by GWH Construction Pty Ltd is considered to be a reasonable price for the contract works.

Process Review

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

RISK ASSESSMENT

General

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken; for example, design work versus construction work; and the type of contract, for example Lump Sum versus Schedule of Rates.

6.2 Contract CPA 158359 - Ourimbah Rural Fire Station - Building Construction (contd)

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

Contract Risks

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

Generic Risks

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

Specific Risks Leading to Contract Variations

The major risks that Council bears in relation to this contract are;

- During construction conditions arise that were unknown at the time of awarding the contract. This has been mitigated by Council preparing the site for construction of the building.
- Work has been poorly specified leading to disputes over the extent and / or quality of work to be provided. This has been mitigated by the preparation of a comprehensive contract specification.

Risk Contingency

The above risks are considered to be low for this contract given the value of the contract and the nature of the work.

Based on previous experience with contracts of this nature and analysis of the risks involved, a contract budget of \$416,000.00 (excl GST), is considered appropriate. This provides for a contingency sum of \$38,000.00 representing approximately 10% of the contract value.

BUDGET

This work is being funded by the Rural Fire Service through annual grant funding. Currently \$495,000.00 is available for completion of the total project including the building, which is the subject of this contract.

To date \$143,000.00 has been expended on preliminary earthworks and building pre construction activities. Based on tendered prices for the building and estimates to complete the remaining works the total project cost will be approximately \$745,000.00 leaving a current funding shortfall of \$250,000.00.

The following options to vary or delay the project by either staging construction or varying the scope of works have been considered.

Defer Construction of the Building

The building tender attracted 17 submissions with the lowest 6 relatively closely ranked. Without reducing the scale of the building, which would then not meet the user requirements, there is little scope to reduce the building cost. With the improving economy it is considered that deferring construction of the building would probably result in increased construction costs when tenders are called at a future date.

Stage Finalisation of the Civil Works

While the potential exists to stage some of the civil works e.g. defer placement of the asphaltic concrete wearing course, the reduced costs (approximately \$25,000.00) are not sufficient to avoid the need for significant additional funding. Taking into account the additional costs that would be incurred in maintenance and finalising the works when funding became available, this option would result in a higher whole of project cost and is not recommended.

REQUEST FROM THE RFS FOR COUNCIL TO PROVIDE INTERIM FUNDING

The Rural Fire Service Regional Manager East in a Memorandum dated 28 October 2009 has indicated support for an additional \$250,000.00 for this project to be sought from the Rural Fire Service Fund in 2010/2011 with funding expected to be available in October 2010. The RFS has requested that Council fund this shortfall for the interim period between when the project is completed in about June 2010 and grant funding becomes available. A copy of the RFS Memorandum can be found at the end of this report.

The Memorandum indicates that the full funding will be sought for the 2010 / 2011 financial year, however the final allocation is subject to Ministerial approval and as such may be provided over two years.

It is normal for Council to finance RFS capital works within the financial year that grants are allocated as claims against the grant are made in arrears. In this instance approval to finance across financial years is being sought. The current cost to Council of borrowing finance is approximately 5.5% p.a. Assuming the RFS repay this loan in October 2010 the financing cost to Council would be approximately \$6,875.00. Should the loan be repaid over two years the financing cost would be approximately \$13,750.00. .

The proposed new Ourimbah Fire Station represents an integral upgrade to the RFS capacity to service the Shire.

It is recommended that Council approve this interim funding.

TIME-FRAME

The contract for construction of the building provides for a 19 week construction period. Following completion of the building the finalisation of the civil works and other minor works such as fencing will take a further four to six weeks. Subject to funding availability the project will be finalised by the end of June 2010.

APPROVALS

Approval for this work has been obtained under Part 4 of the Environmental Planning & Assessment Act

LOCAL CONTENT

GWH Constructions is a Newcastle (Thornton) based company that carries out a significant volume of construction on the Central Coast utilising a high proportion of local labour and materials.

The works are expected to take a total of 2880 man hours to complete. The tenderer has indicated that approximately 40% to 50% of this labour will be sourced locally.

The tenderer has indicated that concrete, steel and the majority of sub-contractors materials will also be sourced locally.

The application of the Local Preference policy adopted by Council at the Ordinary Meeting of 25 November 2009 would not make any difference to the recommended tenderer in this instance.

CONCLUSION

Tender No 8 from GWH Construction Pty Ltd is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money. It is recommended that the tender from GWH Construction Pty Ltd be accepted.

ATTACHMENTS

Nil.

6.3 Contract CPA 171474 - Estuary Management Plan - Stormwater Treatment Works Project - Parkside Drive, Charmhaven

TRIM REFERENCE: CPa/171474 - D02083740

AUTHOR: JR

SUMMARY

Evaluation and selection of lump sum tenders for Contract CPA/171474. Estuary Management Plan – Stormwater Treatment Works Project – Parkside Drive, Charmhaven.

RECOMMENDATION

- 1 That Council accept Tender No 1 from Environmental Land Contracting Pty Ltd in the lump sum amount of \$475,034.50 (excl GST.)**
- 2 That Council approve a contract budget of \$545,034.00 (excl GST) that provides for a contingency amount of \$70,000.00 (excl GST) representing approximately 15% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

BACKGROUND

Council through its Estuary Management Unit is implementing the Tuggerah Lakes Estuary Management Plan. The Plan involves a number of projects over the next five years within the catchment of the Lakes, enabling the improvement of water quality and foreshore ecology in Tuggerah Lake, Budgewoi Lake and Lake Munmorah.

As part of this Plan stormwater treatment works were identified at Parkside Drive, Charmhaven.

The works consist of the installation of two Gross Pollutant Traps, the rehabilitation of the existing drainage channel and the installation of two footbridges. Also included is an independent peer review of the work to be progressively undertaken by a recognised environmental scientist.

Design solutions were developed for this project being cognisant of Council's Draft 'Water Sensitive Urban Design (WSUD) Management Guidelines' that take into account sustainability.

The principal objectives of this contract are:

- 1 Protect the environment throughout the life of the project.
- 2 Construct the works in a way that ensures the desired outcome is achievable without causing further damage to the environment.
- 3 Control the amount, quality and speed of stormwater that is reaching and eroding stream banks.
- 4 Improve the quality of stormwater entering the Tuggerah Lakes Estuary.
- 5 Improve the water quality of the Tuggerah Lakes.
- 6 Improve the riparian zone ecology.

The environmentally sensitive nature of these works necessitate that time cannot be the overriding criterion during the delivery process.

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 20 October 2009 and the Central Coast Express Advocate on 21 October 2009. Tenders were also advertised on Council's e-Tender site. The advertised closing date was 12 November 2009.

The invitation documents called for lump sum tenders based on a detailed specification and suite of supporting documentation.

The following addenda were issued to all prospective tenderers during the invitation period.

- 1 Returnable Schedules Issued (15 October 2009).
- 2 Confirmation of NSW Legislation (27 October 2009) regarding – Spoil Classification – EPA Act.
- 3 Alterations to the specification (27 October 2009) due to the requirement to provide Peer Review Environmental Management Measures.
- 4 Response to tender queries (30 October 2009).
- 5 The issue of second file noted in Addendum No 4.

Tenders closed at Council Chambers at 2.00pm on 12 November 2009.

EVALUATION OF TENDERS

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

Threshold Criteria:

- Compliance with Tender documents, including lodgement of tender by specified time.
- Ability to manage financial, environmental, operational and safety risks.
- An Environmental Management System.

Weighted Criteria:

- Conformity with Brief / Specification.
- Proposed methodology / construction program / environmental management.
- The tendered price and structures as well as any other potential costs to Council that may be identified.
- Experience in the specific field.

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

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

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- Detailed weighted evaluation of shortlisted tenders.

6.3 Contract CPA 171474 - Estuary Management Plan - Stormwater Treatment Works Project - Parkside Drive, Charmhaven (contd)

- Due diligence checks on preferred tenderers.
- Independent review of the tender selection process.

Assessment of Receipt

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

Tender No	Tender	Tendered Lump Sum (Ex GST)	Status
1	Environmental Land Contracting Pty Ltd.	\$475,034.50	Submitted on time.
2	Keller Civil Engineers Pty Ltd.	\$492,000.00	Submitted on time.
3	Palmer Civil Projects Pty Ltd.	\$457,715.48	Submitted on time.
4	Quality Management Constructions Pty Ltd.	\$665,985.00	Submitted on time.
5	Scape Constructions Pty Ltd	\$478,070.35	Submitted on time.
6	TCM Civil Pty Ltd.	\$327,933.40	Submitted on time.
7	Kerroc Constructions Pty Ltd	N/A	Submitted Late.

Assessment of Conformance

Correction of an arithmetical error in the Schedule of Rates for Tender No 1 (from Environmental Land Contracting) has resulted in an adjusted lump sum amount of \$475,034.50.

Clarification of the Schedule of Rates was sought from Tender No 3 (from Palmer Civil Projects) and Tender No 6 (from TCM Civil). As no substantive allowance was made for the provision of the two documented bridges both Tender No 3 and Tender No 6 have increased proportionally in value to allow for same. In addition Tender No 3 offered alternative products which were considered either during the project development stage or are contrary to required project outcomes and therefore were not considered further.

Following minor adjustments as described above the tenders were assessed for conformance with the general tender requirements, including the specification. Tender No 1 (from Environmental Land Contracting), Tender No 4 (from Quality Management Constructions) and Tender No 5 (from Scape Construction) conformed to all requirements and were progressed to the next stage of evaluation.

Tender No 7 (from Kerroc Constructions) was received after the tender closing time and was excluded in accordance with the tender regulations.

Tender No 2 (from Keller Civil Engineers), Tender No 3 (from Palmer Civil) and Tender No 6 (from TCM Civil) were excluded as nonconforming with Threshold Criteria regarding Environmental Management Systems. Given the nature of the contract works it is essential that the selected contractor has in place and adheres to a properly developed and implemented Environmental Management System. The excluded tenderers could not demonstrate that they had systems of adequate quality to comply with the requirements for this contract.

In addition further analysis of the schedule of rates for Tender No 6 (from TCM Civil) highlight that the disposal and management of spoil in accordance with the EPA (2008) Waste Classification Guidelines, can not be accommodated for the tendered rates.

Weighted Evaluation

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

Tender No+	Tender	Tendered Lump Sum (Ex GST)	Weighted Evaluation Score
1	Environmental Land Contracting Pty Ltd.	\$475,034.50	88
5	Scape Construction Pty Ltd.	\$478,070.35	83
2	Keller Civil Engineers Pty Ltd.	\$492,000.00*	66
3	Palmer Civil Projects Pty Ltd.	\$487,715.48*	62
4	Quality Management Constructions Pty Ltd.	\$665,985.00	63

* (See assessment of conformance)

Tender No 1 (from Environmental Land Contracting), being the highest scoring tender, was progressed to the due diligence stage of the evaluation.

Due Diligence

Tender No 1 (from Environmental Land Contracting) was subjected to a financial assessment, an in-house safety/environment system assessment and referee checks.

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

Environmental Land Contracting a contractor with a history of successfully completed contracts similar in nature and scope to the current works. The company has in place fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

The amount tendered by Environmental Land Contracting is within 10% of Council's pre-tender estimate and is considered to represent a reasonable price for the contract works. It is noted that the pre-tender estimate was prepared by Currie & Brown, independent cost valuers.

Process Review

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

RISK ASSESSMENT

General

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken, for example, design work versus construction work; and the type of contract.

Lump Sum versus Schedule of Rates

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

Contract Risks

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

Generic Risks

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

Specific Risks Leading to Contract Variations

The following are the major risks that Council bears in relation to this contract:

- The quality of the design is sub-standard resulting in additional costs during the construction phase. Mitigated by appropriate technical reviews by others to ensure design meets requirements.
- Changes to regulatory design standards requiring project re-design. Mitigated by using latest information in tender documents and minimising delays in award of contract.

Risk Contingency

The above risks are considered to be moderate for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$70,000.00 (excl GST) representing approximately 15% the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a high probability that the project budget of \$545,034.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

BUDGET**Funding: Estuary Management Unit**

The total project budget assigned to this Stormwater Treatment Works Project is \$660,000.00 coming from the Waterways Environmental Levy.

Although the value of the contract works is \$475,034.50 the actual value will depend on the quality of design documentation and the administration of the contract over the life of the works. The total amount of the contract as defined could therefore vary marginally during the execution of the works.

TIME-FRAME

It is expected that the works will be completed within three months of commencement. Environmental Land Contracting Pty Ltd has advised they can mobilise within three weeks of contract award.

LOCAL CONTENT

Environmental Land Contracting Pty Ltd is an Ourimbah based company. The tenderer has indicated that the contract works are expected to generate approximately 50 person-weeks of labour requirements and that all labour resources to be employed on the project will be sourced from the Central Coast region.

The application of the Local Preference policy adopted by Council at the Ordinary Meeting of 25 November 2009 would not make any difference to the recommended tenderer in this instance.

CONCLUSION

Tender No 1 (Environmental Land Contracting Pty Ltd) from Ourimbah is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that the tender be accepted.

ATTACHMENTS

Nil.

6.4 Contract CPA 159131 - Evaluation and Selection of Tenders for Construction of Mardi to Mangrove Link Project

TRIM REFERENCE: CPA/159131 - D02085390

AUTHOR: GM

SUMMARY

Evaluation and selection of Tenders for Contract No. CPA/159131 – Construction of Mardi to Mangrove Link Project.

RECOMMENDATION

- 1 That Council accept Tender No. 3 from John Holland Pty Ltd in the estimated combined Schedule of Rates and Lump Sum contract amount of \$64,156,933.09 (excl GST).**
- 2 That Council approve a contract budget of \$77,000,000.00 (excl GST), that provides for a contingency amount of \$12,843,066.91 (excl GST), representing approximately 20% of the contract value, to provide for any unforeseen circumstances, including additional works, that may become necessary during the course of the project.**
- 3 That Council engage the Department of Public Works as Construction Manager at an estimated amount of \$4,200,000.**

BACKGROUND

Wyong Shire and Gosford City Councils, working together as the Gosford / Wyong Councils' Water Authority, formally endorsed WaterPlan 2050, in August 2007, as a long term blueprint for managing the Central Coast's water resources over the next four decades. WaterPlan 2050 seeks to secure a sustainable long-term water supply for the Central Coast by focusing activity in three key areas:

- Enhancing the existing water supply and storage system.
- Using water efficiently.
- Accessing additional sources of water.

The Mardi to Mangrove Link Project (MMLP) was identified in WaterPlan 2050 as one of the major schemes to achieve those aims and assist in drought proofing the region following the prolonged drought that peaked in 2006 and 2007 and led to the region's water supply storage levels reaching critically low levels.

The MMLP will provide a system of water supply pipes, pumping stations and water intakes to transfer raw water from the lower Wyong River, via Mardi Dam, to Mangrove Creek Dam and to provide for reverse flows from Mangrove Creek Dam to Mardi Dam.

This major capital works project has been divided into the following seven key work packages:

Work Package	Component	Description
WP01	Wyong River Off-take Structure	A new river off-take, near the site of the existing Wyong River Off-take structure, capable of extracting up to 500ML/day from the lower Wyong River. The Principal's design details this as a reinforced concrete structure, with coarse screens, located on the river bank.
WP02	Wyong River Pumping Station	The Principal's design details this structure as a new 320ML/day, in-ground, submersible pumping station (nominally 12m in diameter) to extract water through the Wyong River Off-take Structure, and to transfer it, via the Wyong - Mardi Rising Main No 3 to Mardi Dam.
WP03	Wyong-Mardi Rising Main No. 3	A new Rising Main No. 3 of nominal diameter 1000mm by approximately 2.1km long, supplementing two existing rising mains Nos. 1 and 2, designed to transfer water from the Wyong River Pumping Station to Mardi Dam (via the Wyong – Mardi Inlet Structure). The majority of the route will be through private property but there will be the need to cross the Old Maitland Road once and also to traverse a limited area of Council property. Construction will be by open trenching and includes one pipe bridge over Deep Creek.
WP04	Wyong- Mardi Inlet	A new inlet to Mardi Dam to take the flow from both the Wyong-Mardi Rising Main No 3 and from the Mardi - Mangrove Transfer Main. The inlet will include a break-tank, an inlet pipeline and chemical dosing facility.
WP06	Mardi-Mangrove Transfer Pumping Station	A new 120ML/day above ground pumping station, located near Mardi Dam, designed to transfer water from Mardi Dam, through a new Mardi to Mangrove Transfer Main and the existing Boomerang Creek Tunnel, to Mangrove Creek Dam.
WP07	Mardi-Mangrove Transfer Main	<p>A new pipeline of nominal diameter 1000mm by approximately 19km long, designed to link Mardi Dam with the end of the existing Boomerang Creek Tunnel (which leads to Mangrove Creek Dam). It will permit the transfer of water in either direction according to operational needs. The majority of the pipeline will be constructed in private property, however, there will be approximately 4.2kms of pipeline located in the Yarramalong Road reserve. The pipeline will be mainly constructed using open trenching methods. There are also three pipe bridges and 1 x 165m microtunnel where the pipeline route crosses the Wyong River.</p> <p>This package also includes, but is not limited to, the following:</p> <ul style="list-style-type: none"> i) the demolition and removal of the existing Bunning Creek Road timber bridge across Wyong River and the construction of a new pre-cast concrete beam bridge, including abutment, approach works, temporary access crossing and pipework across Wyong River on Bunning Creek Road ii) the supply and installation of construction access bridges in locations approved by the Principal.
WP18	Lower Wyong River Weir, Fishway and Gauging	The design also involve modifications to the existing weir and fishway (downstream of the Wyong River Off-Take Structure) to incorporate a low-flow fishway and improved flow measurement capability.

6.4 Contract CPA 159131 - Evaluation and Selection of Tenders for Construction of Mardi to Mangrove Link Project (contd)

A schematic plan, annotated with the principle system components, is presented below:



The Federal Government has made a commitment to provide \$80.3 million, (excl GST), of funding for elements of the Mardi-Mangrove Link Project. Wyong Shire Council and Gosford City Council will together equally provide the balance of funds required to deliver the project. Both Councils have confirmed the availability of the balance of funds required for the project.

In December 2007, Wyong Shire Council engaged the Engineering Design Consultant, GHD, Pty Ltd, to provide:

- Engineering and consultancy services to undertake the site investigation work, detailed design and documentation activities, including obtaining statutory approvals Assistance with the procurement of a construction contractor to deliver the project.

Procurement Process

In 2009, Wyong Shire Council adopted a procurement strategy comprising of the following four stages:

- Stage 1: Call for Expression of Interest (EOI) and the shortlisting of up to four Prospective Tenderers
- Stage 2: Conduct an Early Tenderer Involvement (ETI) process to determine which of the Prospective Tenderers will be formally invited to progress into the RFT pricing phase
- Stage 3: Request for Tenders (RFT) phase when the selected Tenderers submit their tendered price, etc, for the proposed works
- Stage 4: Award of the contract to the Preferred Tenderer for the delivery of the construction phase

6.4 Contract CPA 159131 - Evaluation and Selection of Tenders for Construction of Mardi to Mangrove Link Project (contd)

A description of each stage of the procurement process is detailed, as follows:

i) Stage 1 - EOI Process

EOIs were invited by way of public invitation. Advertisements were placed in the Weekend Australian on 11 July 2009, the Sydney Morning Herald on 14 July 2009, the Courier Mail on 11 July 2009 and the Central Coast Express Advocate on 15 July 2009. EOIs were also advertised on Council's e-Tender web site. The advertised closing date was 2.00pm on 30 July 2009.

The invitation documents called for participants to provide details of capabilities and experience with the type of work being proposed. The EOI document detailed mandatory and evaluation criteria that would be considered by the EOI Evaluation Panel to shortlist the Prospective Tenderers. Shortlisted Tenderers were invited to participate in the Stage 2: ETI process.

Three addenda were issued to the Prospective Tenderers during the EOI invitation period. The three addenda were "Questions and Answers" type information in response to enquiries made by interested entities. They included simple questions such as times, dates, clarifications on Federal Accreditations, as well as some detailed and specific questions for entities wanting to submit as Joint Ventures.

EOIs closed at Council Chambers and in Council's e-Tender system at 2.00pm on 30 July 2009.

The 16 submitted EOIs were evaluated by a Panel of five members, consisting of representatives from the project delivery team and Wyong Shire and Gosford City Councils. A Probity Officer was also appointed to observe and monitor the EOI evaluation process to ensure that integrity and probity were appropriately and fairly managed throughout the EOI evaluation process.

All the EOI submissions were assessed and scored by the Panel using the following mandatory and weighted evaluation criteria:

- Compliance with the requirements of the EOI documents and mandatory requirements
- Ability to deliver based on assessed forward workload and financial strength
- Safety and environmental record
- Experience in projects with sensitive community and landowner issues
- Experience with major projects
- Relevance of previous work
- Experience of key personnel

An EOI Shortlisting Report was prepared by the Panel recommending that the following Prospective Tenderers be shortlisted for participation in the ETI process:

- Bovis Lend Lease Pty Ltd
- Jemena Asset Management Pty Ltd
- John Holland Pty Ltd
- McConnell Dowell Constructors (Aust.) Pty Ltd

The EOI Shortlisting Report was approved by Council's General Manager on 6 August 2009. The four Prospective Tenderers were invited to participate in the ETI process and provided with a draft copy of the Request for Tender (RFT), Revision A, on 7 August 2009.

ii) Stage 2 - ETI Process

The ETI process was a collaborative process between Council and the Prospective Tenderers with the objectives to:

- Ensure that the Tenderers are fully informed about the design, commercial conditions and Council's expectations
- Ensure that the Principal's proposed design is practical from a construction perspective
- Confirm the assumptions regarding the programming of critical aspects of the work
- Identify ambiguities, errors and omissions in documentation
- Resolve the acceptability of alternative designs or conditions as early as possible to minimise risk of wasted effort
- Determine appropriate allocations of risk to give adequate protection to Wyong Shire Council while ensuring Tenderers do not need to unnecessarily include risk contingencies in their pricing and
- Resolve any differences regarding technical and commercial conditions such that tenders are unqualified and fully conform to the Request for Tenders.

The ETI process was comprised of the following five main 'steps':

- **Step 1: First workshop:** A one day ETI Workshop, facilitated by NSW Public Works' Mr Forster Rayward, was held on 19 August 2009, and involved the key stakeholders, including representatives from Wyong Shire Council, Gosford City Council, the MMLP Project Team, the Principal's Design Consultant (GHD), each of the Prospective Tenderers and Public Works representatives. The Workshop provided the opportunity for:
 - the introduction of the key contract positions as defined in the GC21 Contract, including the Principal's Senior Executive, the Principal's Authorised Person and the Prospective Tenderer's proposed Senior Executive and Authorised Person
 - the Project Team to provide a detailed briefing on the Project
 - discussion on the design, documentation, constructability and risks associated with the Project
 - highlighting key Project issues, including community, environmental, safety and traffic management matters deemed critical to the overall success of the Project
 - a bus trip to inspect the key project sites and the proposed pipeline routes, viewed from Yarramalong Road.
- **Step 2: Consideration Period:** The Prospective Tenderers reviewed the documentation provided at the end of Stage 1 and at Workshop No. 1, to identify ambiguities or areas where clarification would be necessary, provide recommendations for changes to the documentation and suggested documentation and/or design improvements, comment on the constructability of the Works, examine alternative designs and review the Risk Allocation Register. All Prospective Tenderers provided their detailed written responses, as required, on 16 September 2009.

- **Step 3: Review of Written Responses by the Project Team:** This step involved the Project Team critically reviewing the responses provided by the four Prospective Tenderers. On 25 September 2009, the Project team issued a written response to each of the Prospective Tenderers, providing detailed comment and feedback, including re-issuing the amended Risk Allocation Register. Note: any “commercial-in-confidence” information provided by the Prospective Tenderers, as part of Step 2 above, was treated with the strictest confidence and not shared with the other Prospective Tenderers. In addition, a full-day site inspection was conducted on 24 September 2009, involving two representatives from each of the Prospective Tenderers, to further inspect and gain a better and more detailed understanding of the proposed pipeline routes.
- **Step 4: Second Workshop:** A Second Workshop, comprising an open meeting with all of the Prospective Tenderers and “one-on-one” interviews, was conducted on 30 September and 1 October 2009. On the first day, the Prospective Tenderers responses and the Project Team’s corresponding replies were presented and discussed with all Prospective Tenderers as a group with the aim of collaboratively identifying those areas where the design and documentation could be improved to provide better value for money to Council and to mitigate project risks to all parties. The “one-on-one” interviews provided the Project Team the opportunity to discuss any “commercial-in-confidence” issues and obtain a better appreciation of the Prospective Tenderer’s commitment to the Project.

Step 5: Selection of final Tenderers and finalisation of Contract documentation: The first four Steps of the ETI process, as detailed above, allowed the Panel to observe the commitment and demonstrated capacity of the Prospective Tenderers to deliver the project as measured against the specified ETI evaluation criteria.

The Panel unanimously concluded that all four Prospective Tenderers complied with the acceptance criteria and exhibited a collaborative approach and the experience and technical knowledge to satisfactorily undertake the proposed Works.

On 2 October 2009, the General Manager approved the Panel’s recommendation to invite all four Prospective Tenderers to enter the Stage 3 – RFT process.

In addition, and as part of the ETI process, the four Prospective Tenderers also attended a site inspection on 13 October 2009 of the Mardi to Mangrove Transfer Pump Station Site. This site is currently under the control of Baulderstone Pty Ltd, the nominated Principal Contractor on the Mardi Dam Transfer and High Lift Pump Station Project (Contract CPA/127662). Under the terms and conditions of Contract CPA/127662, the area of the proposed Mardi to Mangrove Transfer Pump Station Site shall be isolated from the Baulderstone contract and handed-over to the MMLP Contractor in order for them to construct the Mardi to Mangrove Transfer Station. The Prospective Tenderers were made aware of this requirement during the ETI Phase and also in the RFT documents.

For their participation and involvement in the Stage 2 ETI process, the four Prospective Tenderers were compensated \$25,000.00 (incl GST), as an acknowledgement and recompense of the time and effort that each of the Prospective Tenderers contributed to the ETI process. Apart from the payment of the stated fee, Wyong Shire Council did not bear any costs incurred by the Prospective Tenderers in relation to the preparation, submission and any subsequent dialogue associated with Stage 2, the ETI process, and Stage 3, the preparation and submission of their Tender price.

iii) Stage 3 - RFT Process

The four Prospective Tenderers were notified by Letter of Invitation, dated 2 October 2009, to proceed to the next stage of the procurement process. This notification allowed the four Tenderers to prepare for participation in the RFT Tender process using the information and draft RFT provided during the ETI phase.

In accordance with the procurement program, the MMLP Project Team then amended and finalised the RFT document, taking into consideration the comments and feedback received from the Prospective Tenderers during the ETI process. The revised RFT document was a significantly improved document which better identified and apportioned the project risks and project scope, thereby reducing Council's potential exposure to variation and extension of time claims during the construction period.

The final RFT was uploaded onto Council's e-Tender website on 16 October 2009. The advertised closing date was 2.00pm on 12 November 2009.

The RFT document called for a combined Schedule of Rates and Lump Sum Items tender to be submitted, based on the Principal's detailed engineering drawings and specifications. However, to allow Council to consider cost saving alternatives to the nominated 1000mm nominal diameter mild steel cement lined pipeline material (MSCL) component of the works, the RFT document provided for Tenderers to consider and propose alternative pipeline materials as a conforming Tender. These materials included ductile iron cement lined (DACL), glass reinforced plastic (GRP) and a combination of pipeline materials, as well as alternative pipeline diameters within specified limits.

A pre-tender meeting was not required due to the Tenderers being actively involved in the ETI process.

The following three addenda were issued to all Tenderers during the invitation period via Council's e-Tender system.

Addendum 1: Alterations to the specification to correct ambiguities and discrepancies, plus the provision of additional reference information and technical drawings to assist in the preparation of the Tender price. (Issued on 29 October 2009).

Addendum 2: Alterations to the technical specification and other minor amendments to clarify ambiguities. (Issued on 30 October 2009).

Addendum 3: Further minor alterations to the specification and Conditions of Tendering. (Issued on 6 November 2009).

Tenders closed in Council's e-Tender system at 2.00pm on 12 November 2009 using two electronic records created in the e-Tender system forming an electronic version of the "two envelope" system. One electronic record contained the "priced" submissions, while the other contained the "non-priced" submissions.

iv) Stage 4 – Award of Construction Contract

Stage 4 will involve the execution of the Construction Contract with the Preferred Tenderer. This stage shall commence following the adoption by Council of the recommendations of the Tender Evaluation Report, if accepted.

EVALUATION OF TENDERS

Tenders were evaluated by a Panel of five members, consisting of representatives from the MMLP Project Team, Wyong Shire Council, Gosford City Council and NSW Public Works.

A Probity Officer was also appointed to observe and monitor the Tender evaluation process to ensure that integrity and probity were appropriately and fairly managed throughout the Tender evaluation process.

The Tender submissions were assessed using the following mandatory and weighted evaluation criteria:

Mandatory Criteria:

- MC1: The Tender must be written in English, express weights and measures using SI units, express monetary values in Australian dollars and be submitted in accordance with the requirements specified in the RFT document
- MC2: The Tender must be submitted by the entity that would execute the construction contract and detail the major sub-contractors
- MC3: The Tenderer must have accreditation in accordance with the National Code of Practice for the Construction Industry
- MC4: The Tenderer must have accreditation in accordance with the Australian Government Building and Construction OHS Accreditation Scheme
- MC5: The Tenderer must be accredited to AS/NZS ISO 4801:2001 or OHSAS 18001:1999; AS/NZS ISO 9001:2000 and AS/NZS ISO 14001:2004

Weighted Criteria:

- Price
- Ability to deliver based on assessed forward workload and financial strength
- Safety and environmental record
- Experience in projects with sensitive community and landowner issues
- Experience with major projects
- Relevance of previous work
- Experience of key personnel
- Demonstrated understanding of the project

The evaluation criteria and their weightings were documented in the Construction of Mardi to Mangrove Link Project, Tender Evaluation Plan, Revision 0, November 2009 and approved by the Director Shire Services on 11 November 2009, prior to closing of Tenders. The Tender Evaluation Plan is available on file.

To assess Tenders against the weighted evaluation criteria, the Panel used information obtained from the Tender documents and related correspondence, referees, external advisors and a financial assessment on the two most highly ranked Tenderers.

The evaluation was conducted according to the following process.

- Assessment of receipt of Tenders
- Assessment of conformance of Tenders
- Detailed weighted evaluation of Tenders
- Due diligence checks on preferred Tenderers
- Independent review of the tender selection process

Assessment of Receipt

The following five Tenders were received and are listed in alphabetical order.

No.	Tender	Tendered Price (Excl. GST)	Status
1	Bovis Lend Lease Pty Limited (MSCL #)	\$70,606,752.73	Submitted on time
2	Jemena Asset Management Pty Ltd (MSCL)	\$92,291,564.64	Submitted on time
3	John Holland Pty Ltd (MSCL)	\$64,156,932.73	Submitted on time
4	John Holland Pty Ltd (GRP #)	\$64,440,860.91	Submitted on time
5	McConnell Dowell Constructors (Aust.) Pty Ltd (MSCL)	\$104,027,061.80	Submitted on time

Note:

- # MSCL = mild steel cement lined pipe
- GRP = glass reinforced plastic pipe

All Tenders were received on time and progressed to an assessment of conformance.

Assessment of Conformance

The five Tenders received were assessed for conformance with the general Tender requirements, including the specification and the mandatory criteria, as detailed in the following table:

No.	Tenderer	Comments	Substantially Conforms
1	Bovis Lend Lease P/L (MSCL)	<ul style="list-style-type: none"> • The Tender was adjusted for a minor arithmetical error of \$9.09, (excl GST), which was considered as an insubstantial error. • The Tender, in respect of Mandatory Criterion 5, was deemed a minor non-conformance, as detailed below: The Tenderer did not provide suitable evidence of accreditation to AS/NZS ISO 4801 and AS/NZS ISO 14001. The certificates provided showed that accreditation had recently expired on 10/8/09 and 8/10/09, respectively. No evidence of renewal was provided. The Panel considered that it would be highly unlikely that the Tenderer would not have renewed its accreditation and such accreditation should be forthcoming. The Panel agreed to seek evidence that the accreditation had been renewed should the Tenderer be assessed as the likely Preferred Tenderer. • Tender Schedule 23 did not contain any Technical Departures. • The Tender, in all other matters, was deemed to be conforming. 	Yes

No.	Tenderer	Comments	Substantially Conforms
		<p>In accordance with the terms of the RFT and consistent with probity and legal advice, the Tender was progressed to the next stage of evaluation.</p>	
2	<p>Jemena Asset Management Pty Ltd (MSCL)</p>	<ul style="list-style-type: none"> • The Tender was adjusted for a minor arithmetical rounding error of \$0.03, (excl GST), which was considered as an insubstantial error. • The Tender, in respect of Mandatory Criterion 5, was deemed a minor non-conformance, as detailed below: <p>The Tenderer did not provide suitable evidence of accreditation to AS/NZS ISO 9001 and AS/NZS ISO 14001. The certificates provided showed that accreditation had recently expired on 30/9/09 and 23/9/09, respectively. No evidence of renewal was provided.</p> <p>The Panel considered that it would be highly unlikely that the Tenderer would not have renewed its accreditation and such accreditation should be forthcoming. The Panel agreed to seek evidence that the accreditation had been renewed should the Tenderer be assessed as the likely Preferred Tenderer.</p> • Tender Schedule 23 contained two departures and five clarifications. The Panel deemed that of the five clarifications, three referring to capped liability and insurance matters, were significant and have the potential to increase the Tendered price. These departures and clarifications would be assessed in detail should the Tenderer be assessed as the likely Preferred Tenderer. <p>The Tender was progressed to the next stage of evaluation.</p>	Yes
3	<p>John Holland Pty Ltd (MSCL)</p>	<ul style="list-style-type: none"> • The Tenderer submitted a Tender based on MSCL pipework, as detailed in the Tender documents issued. • The Tender was adjusted for a minor arithmetical rounding error of \$0.36, which was considered as an insubstantial error. 	Yes

No.	Tenderer	Comments	Substantially Conforms
		<ul style="list-style-type: none"> <li data-bbox="632 277 1219 371">• The Tender, in respect of Mandatory Criterion 3 was deemed a minor non-conformance, as detailed below: The Tenderer did not provide suitable evidence that accreditation with the National Code of Practice for the Construction Industry had been received. Instead, the Tenderer provided a letter from its Solicitors advising that the agreement had been lodged with DEEWR prior to August 2009 and, in the Solicitor's opinion, the agreement was compliant with the DEEWR requirements. The Evaluation Panel, at its absolute discretion, considered that the Tenderer had effectively done everything within its power to obtain the required accreditation and that the actions of a third party (DEEWR), outside the reasonable control of the Tenderer, were contributing to the delay in receiving the required accreditation notification. The Panel considered that there was no apparent reason why accreditation would not be granted to this large, reputable Tenderer. The Panel concluded that should the Tenderer be assessed as the likely Preferred Tenderer, the Panel would then seek confirmation as to whether the accreditation had been subsequently received or whether such accreditation would likely be received prior to the award of a Contract. Notwithstanding this, Legal advice obtained by the Panel from Council's lawyers advised that the clarification could be sought; that the evidence of accreditation would not substantially alter the original Tender; and that this would accord with the Local Government (General) Regulation 2005. On 18 November 2009, before the Panel sought clarification, the Tenderer forwarded a copy of DEEWR's letter, dated same, confirming that John Holland Pty Ltd had achieved accreditation with the National Code of Practice for the Construction Industry. The Tenderer advised that the certification was sought in August 2009 but had only just been received. 	

No.	Tenderer	Comments	Substantially Conforms
		<p>The Panel accepted the accreditation as compliant with the mandatory requirements.</p> <ul style="list-style-type: none"> • Tender Schedule 23 contained three departures, two of which offered equivalent products, as allowed under the RFT. These had the potential to increase the Tender price. The third was a simple clarification. <p>The Panel considered these two departures would be assessed in detail should the Tenderer be assessed as the likely Preferred Tenderer.</p> <ul style="list-style-type: none"> • Clarification was sought from the Tenderer on inconsistencies in Schedule 6 and the evidence for insurance cover provided in respect to Public Liability Insurance, Contract Works Insurance and Professional Indemnity Insurance policies. The Tenderer confirmed that the level of insurance provided in the Certificates of Currency was inadvertently in error and subsequently provided certificates complying with the requirements of the RFT. The Panel was satisfied that this matter had been appropriately resolved. • The Tender, in all other matters, was assessed as being conforming. <p>The Tender was progressed to the next stage of evaluation.</p>	
4	John Holland Pty Ltd (GRP)	<ul style="list-style-type: none"> • The Tenderer also submitted a Tender using GRP pipework, as allowed under the RFT. • The Tender was adjusted for a minor arithmetical rounding error of \$0.18, which was considered as an insubstantial error. • Pursuant to RFT Clause 2.4.2.2, the conforming GRP Tender amount was adjusted (reduced) in the net amount of \$862,727.27, (excl GST) (or \$949,000.00, incl GST), to take into account the “whole of life” operating savings resulting from the larger diameter GRP pipework offered. The adjusted amount was calculated as follows: <ul style="list-style-type: none"> i) Work Packages WP03 (\$143,636.36, excl GST) ii) WP07 (\$719,090.91, excl GST). 	No

No.	Tenderer	Comments	Substantially Conforms
		<p>to provide an adjusted Tender amount of \$63,578,133.82. This Tender is \$578,799.27, (excl GST) (or 0.9%) below their MSCL Tender (Tender No. 3).</p> <ul style="list-style-type: none"> The above mentioned GRP Tender price was based on an alternative pipeline design, as detailed in a set of revised drawings provided with the Tender submission. This offer was conditional on the details and pipeline configuration presented in their alternate design. <p>The Tenderer's marked-up drawings detailed a significantly altered and amended pipeline design profile (longsection) and pipeline plan route. In general, the revised pipeline design profile was significantly higher than that detailed in the Principal's design. This could result in significantly reduced ground cover over the pipeline and unacceptably increased uplift forces on the pipeline following flooding.</p> <p>The Principal's design was based on deeper minimum covers to comply with landholder requirements to prevent damage to the pipeline by farming activities, especially those associated with ploughing, fence post installation, etc., as well as other technical and hydraulic reasons and considerations.</p> <p>The proposed alternative design was assessed as being inferior to the Principal's design and significantly increases the operational and maintenance risks associated with a shallower pipeline.</p> <p>In addition, the Panel noted that the revised design would require design verification and NSW Mine Subsidence Board (MSB) approval prior to construction work commencing. The processes required to achieve those requirements could significantly delay the commencement of site works and adversely impact on the tight delivery program.</p> <p>The Panel concluded that the Tenderer would need to substantially increase its tendered GRP pipe offer to comply with</p>	

No.	Tenderer	Comments	Substantially Conforms
		<p>the Principal's design requirements and for the reasons outlined here, considered that this Tender did not provide any significant advantage to Council.</p> <p>In view of the above, this Tender was not considered further.</p>	
5	<p>McConnell Dowell Constructors (Aust.) P/L</p> <p>(MSCL)</p>	<ul style="list-style-type: none"> • The Tender, in respect of Mandatory Criterion 3 was deemed a minor non-conformance, as detailed below: <p>The Tender included two letters from DEEWR, as evidence that the Tenderer had received accreditation with the National Code of Practice for the Construction Industry. However, these two letters had been issued for specific projects, namely Western Sydney Replacement Flows Project Greenfields Agreement 2008 and Sydney Desalination Pipeline Greenfields Agreement 2008 and not the MMLP project.</p> <p>The Panel considered that there was no apparent reason why the Tenderer would not receive the appropriate accreditation for the MMLP project, based on the evidence provided on achieving such accreditation on two other projects.</p> <p>The Panel considered from the evidence provided, that the Tenderer would be able to achieve the appropriate accreditation for this project and that such appropriate evidence would be sought if the Tenderer was assessed as the likely Preferred Tenderer.</p> <ul style="list-style-type: none"> • Tender Schedule 23 contained 74 departures. The panel deemed that many of these were in fact commercial qualifications. The Panel deemed that many of these were significant and have the potential to increase the Tendered price. These would be assessed in detail should the Tenderer be assessed as the likely Preferred Tenderer. • The Tenderer omitted to provide resumes for the key personnel nominated for the Project Delivery Team. • The Tender, in all other matters, was deemed to be conforming. 	Yes

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No.	Tenderer	Comments	Substantially Conforms
		The tender was progressed to the next stage of evaluation.	

Tender Nos. 1, 2, 3 and 5, above, were progressed to a full weighted evaluation.

Weighted Evaluation

The Panel reviewed the four principal Tenders in detail and scored each against the weighted evaluation criteria, including price and non-price elements.

In accordance with the Tender Evaluation Plan, the non-priced components of the Tenders were assessed and scored prior to the opening of the priced components of the Tenders.

A summary of the Tenders follows:

- Tender No. 1 (from Bovis Lend Lease Pty Ltd): A complete and detailed submission from a very large and experienced company. The Tenderer demonstrated a comprehensive and sound understanding of the project requirements and deliverables. It was considered that the nominated Project Delivery Team had lesser experience in the delivery of large water projects when compared with the other Tenderers. The Tenderer will “project manage” the delivery of the project and rely on Sub-contractors to deliver key project elements, including pipelaying and pump station construction. The Tenderer has very good quality, safety and environmental management systems and is experienced in managing community and landholder issues. The Panel considered that the Tenderer had the project management experience and appropriate management systems to successfully deliver the project.
- Tender No. 2 (from Jemena Asset Management Pty Ltd): A complete and detailed submission from a large company, experienced in the delivery of large projects, albeit mainly in the gas and power industries. The Tenderer proposed to use a company subsidiary, CLM, to undertake the majority of the construction works. The Tenderer provided a good structured methodology, however, it contained less technical detail than some of the other Tenders. The Panel considered that the construction program was not as comprehensive and detailed as the other submissions. The Tenderer nominated a Project Delivery Team experienced in the construction of large pipelines, albeit, in the gas industry. The Tenderer has very good quality, safety and environmental management systems and demonstrated experience in managing community and landholder issues. The Panel considered that the Tenderer had the technical experience and knowledge to successfully deliver the project.
- Tender No. 3 (from John Holland Pty Ltd): A superior, professional and thorough submission by this large construction company. The Tenderer proposed to “self perform” the key elements, including pipeline and pump station construction works utilising its water industry specialist subsidiary company. The Tenderer demonstrated a thorough and in-depth understanding of the project and provided a very detailed program with a clear understanding of the project requirements and deliverables. The nominated Project Delivery Team is very experienced in the delivery of large water infrastructure projects. The Tenderer has very good quality, safety and environmental management systems and has extensive experience in managing community and landholder issues. The Panel considered that the Tenderer had the technical experience and knowledge to successfully deliver the project.

- Tender No. 5 (from McConnell Dowell Constructors (Aust.) Pty Ltd): An acceptable submission by a large and experienced construction company. The Tenderer proposed to utilise its own resources to undertake key work elements. The Tenderer demonstrated a good understanding of the project requirements and deliverables and provided a detailed program. The Tenderer has very good quality, safety and environmental management systems and has extensive experience in managing community and landholder issues. The relevant experience of the nominated Project Delivery Team was difficult to determine due to the omission of resumes for the key project personnel. These were subsequently submitted and showed that the nominated Project Management Team was experienced in the delivery of large water supply schemes. The Panel considered that the Tenderer had the technical experience and knowledge to successfully deliver the project.

The weighted evaluation scores, for the combined price and non-price elements, are listed below in ranking order:

No.	Tenderer	Adjusted Tendered Price (Ex GST)	Weighted Evaluation Score	Ranking
3	John Holland Pty Ltd (MSCL)	\$64,156,933.09	95	1
1	Bovis Lend Lease P/L (MSCL)	\$70,606,743.64	88	2
2	Jemena Asset Management Pty Ltd (MSCL)	\$92,291,564.67	63	3
5	McConnell Dowell Constructors (Aust.) P/L (MSCL)	\$104,027,061.80	50	4

The two highest ranked Tenders, (those from John Holland Pty Ltd and Bovis Lend Lease Pty Ltd) were separated by approximately 10% in price. Consequently, a sensitivity analysis was undertaken to determine if a change in the estimated quantities of work under the Schedule of Rates affected the Tender relativity. This was carried out by adjusting the Schedule of Rates quantities for key activities within the upper and lower limits of accuracy as specified in the RFT. The sensitivity analysis revealed that there was no change in Tender relativity and Tender No. 3 remained the lowest Tender.

Tender No. 3 (from John Holland Pty Ltd), being the highest ranked Tender, was assessed as being the Preferred Tender.

As discussed below, the Preferred Tender, John Holland Pty Ltd, also provided prices for alternatives, offering indicated savings to the tendered amount, for consideration by Council. The other Tenderers did not offer any alternatives to their principal Tender.

Assessment of Alternative Offers

The following six alternative offers were received from John Holland Pty Ltd:

No.	Description	Alternative Offer Amount (Excl GST)
1	WP01 and WP02: Alternative off-take and above ground pump station at Wyong River	\$2,400,000.00 (Deduction)
2	WP03 and WP07: Revised thrust restraint for MSCL pipework	\$950,000.00 (Deduction)
3	WP03 and WP07: Revised thrust restraint for GRP pipework	\$1,100,000.00 (Deduction)
4	WP07: Supply of alternative S P Kinney Automatic Strainer	\$186,000.00 (Addition)

No.	Description	Alternative Offer Amount (Excl GST)
5	WP07: Horizontal directional drill in lieu of micro-tunnel under Wyong River	\$1,300,000.00 (Deduction)
6	WP02: Use of penstocks in lieu of knife gate valves	\$100,000.00 (Deduction)

The Panel reviewed the alternative offers for suitability and value to Council. The Panel also sought specialist advice and technical assistance in order to fully assess the merit and cost/benefit of the alternatives.

A summary of the alternative offer assessment is provided as follows:

- i) Alternative Offer No. 1: This proposed alternative design for the Wyong River Pumping Station and off-take structure, offered a deduction of \$2,400,000.00, (excl GST), to provide an alternative Pumping Station arrangement. The alternative comprised five inclined turbine pumps located on a galvanised steel structure, located adjacent to the river bank. The five turbine shafts are also located above ground and are supported on a piled structure running down the river bank into Wyong River. This alternative design replaces the Principal's design for the off-take structure and submersible pumping station wet well.

The proposed alternative design was detailed in drawings prepared by the Tenderer's Design Consultant, SMEC Australia Pty Ltd, and provided with the Tender submission. Examples of the proposed alternative design have been designed and constructed by SMEC along the Murray River and other locations.

The Tenderer advised that the proposed alternative design provided the following advantages to Council:

- Lower capital cost
- Reduced impact on the river bank
- Elimination of the pump station wet well
- Protection of aquatic life
- Reduced maintenance and easy access

After a review of the proposed alternative design and technical advice received by the Panel the following conclusions were reached:

- The proposed alternative design, at face value, offered some benefits in terms of easier construction techniques, reduced short-term construction environmental impacts and easier access for maintenance
- The alternative design drawings showed the inclined electrically operated turbine pumps to be located at approximate RL8.0, (or 0.5 metres), below the Probable Maximum Flood (PMF) level of RL8.5, contrary to their statement that pumps would be located above the PMF. (Note: the existing Wyong River Pump Station switch room is located at RL8.65 (or 150mm above the flood level)).
- The alternative design drawing detail the pump platform at RL 7.8 or 2.3 metres above the natural surface level of RL5.5. The galvanised steel structure would need to be increased in height to RL8.65 (or 3.15m above existing ground level) to be above the specified flood level. This would have significant aesthetic and visual impacts.
- The design is incomplete and qualified and details key elements, including acoustic enclosures and some platform components. This does not provide a fully complying alternative design.

In addition, the Panel identified the following shortcomings with the proposed alternative design:

- There is a high risk that the proposed above ground structure would be subject to flood damage. A protective bund wall, or equivalent, would need to be constructed around the structure. The cost of this structure has not been included in the deduction offered.
- There is a high risk that the above ground structure, including pumps and electrics would be subject to vandalism. The Principal's design, based on a below ground wet well, provides a significantly higher level of security from vandalism.
- The proposed pump station structure would be approximately 4 to 4.5 m high and would be highly visible, industrial looking and aesthetically unpleasing.
- There is a high risk that the above ground turbine motors would require acoustic covers to mitigate unacceptable noise levels.
- Additional Part 5 planning approvals would be required. The current Part 5 approval is for a below ground wet well. The proposed alternative design would require the submission of a new REF and amendment to the existing Part 5 approval. This planning process has an unacceptably high risk of being challenged due to aesthetic, noise and flood security reasons, as well as other DECC requirements.
- There is a high risk that the time required to develop the design and obtain planning approvals, if approved, would adversely impact on the program and could jeopardise the Federal Funding arrangements.
- There are also other ancillary issues associated with "marrying" the proposed alternative above ground Pump Station into the designed system, including, but not limited to, the following:
 - Impacts on the designed pump duties and pipeline performance
 - Impacts on the existing pump control system
 - Interfacing issues with the Principal's design, including design liability issues
- There is a high risk that the suction from the inclined turbines could generate higher turbulence and vortices in the river, than those caused by the Principal designed off-take structure, which could adversely impact on the aquatic life and stability of the river bank and bed.

The Panel concluded that the proposed alternative design has not been adequately developed and presented for the purpose of assessment. There is an unacceptably high risk that the alternative design may not receive planning approval. In addition, the tight delivery program to meet Federal Funding requirements and the fact that the offered deduction does not truly reflect the cost benefits and savings to Council provided strong reasons to pass over the alternative offer. No further consideration was given to this alternative offer.

- ii) Alternative Offer No. 2: This proposed alternative design, at the deduction amount of \$950,000.00, (excl GST), was for alternative embedment and thrust restraint for MSCL pipes. The offer comprised revised depth of pipeline embedment, revised concrete thrust blocks and an alternative calculation of retraining lengths for welded sections used in lieu of thrust blocks.

The Principal's Design was undertaken by a highly respected Design Consultant who produced a fully detailed and documented design. This design is fully certified by the Designer and has obtained NSW Mine Subsidence Board approval. The Principal's Design has been based on Council's Design Brief, sound engineering and technical requirements and codes and detailed site investigation works, including geotechnical investigations.

The proposed alternative design is based on shallower pipe depths (embedments) and less conservative design parameters, including soil strengths for thrust block restraints.

The Design Consultant confirmed that the proposed alternative design parameters proposed by the Tenderer were less conservative and would expose Council to a higher level of risk in terms of design security and operational reliability.

The Panel concluded that this risk was unacceptable and that adoption of this alternative reduced the required system "factor-of-safety". The Principal's Design is a robust and conforming design, taking into account landholder requirements, Council's operational requirements, whole of life costs, etc, which need to be adopted for major Capital Works projects like the Mardi to Mangrove Link Pipeline.

The Panel passed over this alternative offer.

- iii) Alternative Offer No. 3: This proposed alternative design, at the deduction amount of \$1,100,000.00, (excl GST), was for alternative embedment and thrust restraint for GRP pipes. The offer comprised revised depth of pipeline embedment, revised concrete thrust blocks and an alternative calculation of retraining lengths for "butt and strap" welded sections of GRP pipe used in lieu of thrust blocks.

John Holland's Tender No. 4 for GRP pipework, in the Assessment of Conformance section above, was not progressed, therefore, since this alternative applies to Tender No. 4, this alternative offer was also not considered further.

In addition, the Panel was advised by technical advisers that there were some concerns with the strength and long term durability of the proposed "butt and strap" joints following recent failures on other projects.

The Panel did not consider this alternative offer further.

- iv) Alternative Offer No. 4: This proposed alternative offer, at the additional amount of \$186,600.00, (excl GST), was to provide the specified S P Kinney brand Automatic Strainer. The type of strainer which has been offered and priced in the Tender submission was an "equivalent" Eliminator brand automatic strainer.

The specified S P Kinney strainer is manufactured and fully imported from America. The offered alternative Eliminator strainer is manufactured in Australia, under licence from America, since 1987.

Technical advice provided to the Panel confirmed that the Eliminator strainer is a fixed drum strainer with motor driven rotating scraper/backwash arm, which, when activated, sweeps the inner surface of the 1.0mm aperture wedge wire screen. Particles trapped on the screen are dislodged by the brushes and flushed out the exhaust valve. This configuration is similar to the specified SP Kinney type strainer and is deemed to be a suitable equivalent.

The Panel is prepared to accept the equivalent alternative Eliminator brand strainer at no change to the Tender price.

- v) Alternative Offer No. 5: This proposed alternative offer, at the deduction amount of \$1,300,000.00, (excl GST), is for the installation of the pipeline under Wyong River, between chainages 15050 and 15234, using the Horizontal Directional Drilling (HDD) technique, in lieu of the specified micro-tunnelling technique.

The alternative offer is based on using a nominal 1200 mm internal diameter HDPE pipe with a pressure rating of PN 12 (120m head).

Technical advice sought by the Panel confirmed that the Principal's Design is based on an equivalent PN 16 pipe (160m head). The actual design head at the proposed HDD location is approximately 115m head. The alternative design provides an unacceptable factor-of-safety.

The Panel rejected the alternative offer and did not consider it further.

- vi) Alternative Offer No. 6: This proposed alternative offer, at the deduction amount of \$100,000.00, (excl GST), is for the installation of two electrically actuated Penstock valves, in lieu of the specified electrically actuated gate valves at the Wyong river wet well inlet.

Technical advice provided to the Panel indicated that the proposed penstocks are inferior and require a higher level of maintenance due to their "open" frame construction while the gate valves are fully enclosed and are relatively maintenance free.

Accordingly, the Panel rejected the alternative offer and did not consider it further.

The Panel concluded that, in general, the proposed alternative offers provided a lesser performance and/or quality and/or unacceptable increase in project risk and therefore, assessed that all of the alternatives were unacceptable as proposed and did not provide value for money to Council and/or enhanced system performance.

Assessment of Departures

The principal Tender submitted by John Holland (Tender No. 3) contained three departures in Returnable Schedule 23, as discussed below:

Departure No. 1: Volume 1.6, Clause 5.9.2: The Tenderer offered alternative Krohne Optiflux electromagnetic flow meters in lieu of the specified Rosemount, or approved equivalent, electromagnetic flow meters.

Departure No. 2: Volume 1.6, Section 6.13: The Tenderer offered alternative Eliminator Automatic Self Cleaning strainer which meets the general intent of the Specification, in lieu of the specified S P Kinney brand or approved equivalent.

Departure No. 3: Volume 2 Drawings: Drawing No. 21-1660606-W104, Revision 0: Electrical submersible duplex pump set: The Tenderer interpreted this as a "duplex" pump set consisting of a dual pump arrangement, not as duplex stainless steel which is used as a manufacture material for pumps used in sea water applications.

The Panel reviewed the departures for acceptability and value to Council. The Panel also sought specialist advice and technical assistance in order to fully assess the merit and benefit of the above listed departures.

The Panel assessment of the departures is provided as follows:

Departure No. 1: The advice received indicated that the proposed alternative Krohne electromagnetic flow meters were equivalent to those specified and would satisfy the design and performance requirements. The Panel accepted the proposed alternative Krohne flow metres.

Departure No. 2: The Eliminator Automatic Strainer was offered as an equivalent alternative to the specified S P Kinney Automatic Strainers. Under the Assessment of Alternative Offers section, Item 4, above, the alternative Eliminator type strainer was assessed and accepted as being a suitable alternative. The proposed alternative was therefore accepted.

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Departure No. 3: The Panel agreed with the Tenderers interpretation of the meaning of a “duplex” pump set as consisting of a two pump arrangement. The departure was concurred with and accepted.

The Panel concluded that the departures were acceptable and did not alter the Tender price, therefore there was no need to seek any further clarification from the Tenderer.

John Holland Pty Ltd remained the Preferred Tenderer and was progressed to the due diligence assessment.

Financial Due Diligence

The highest ranked Tenderer, John Holland Pty Ltd, was subjected to a financial assessment. The checks revealed that John Holland Pty Ltd had “very strong” financial rating of 9.85 / 10.

On the basis of the information provided by the Tenderer, Council’s independent financial assessor Corporate Scorecard, and independent referees, it is considered that John Holland Pty Ltd possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

John Holland Pty Ltd is a Sydney, NSW, based contractor with a history of successfully completed contracts similar in nature and scope to the proposed MMLP works. The company has a fully documented Occupational Health Safety and Rehabilitation Management, Environmental Management and Quality management systems.

The amount tendered by John Holland Pty Ltd was approximately 52% below Council’s pre-tender estimate of \$134 million, (excl GST), prepared by independent quantity surveyors based on a P50 risk probability (a 50% probability the estimate will be exceeded).

At the time of developing the above estimate, the construction industry was less competitive and commodity prices were buoyant. Further, Council was still considering an open tender procurement process and estimates included considerable contingencies based on the risk profile at that time. The inclusion of an ETI process, where Tenderers were involved in risk allocation and participation in detailed design review as well as a more competitive market following the Global Financial Crisis, has resulted in a significantly lower Tender price than estimated. Due to the two lowest Tenders, those from John Holland Pty Ltd and Bovis Lend Lease Pty Ltd, being within approximately 10%, of each other, the Panel concluded that the two lowest prices received were a true indication of the market value for the works.

It is considered that the submitted Tender from John Holland Pty Ltd, represents a very competitive and reasonable price for the contract works and provides excellent value for money to Council.

Environment Referee review

As part of the tender assessment Shire Planning staff were asked by the project team to assist in assessing the environmental performance of the tenderers on previous projects. Staff developed a matrix of questions across a range of areas that impact on site environmental outcomes to ask each of the referees. A detailed scoring regime was developed prior to the commencement of the review. The intent of the process was to understand the actual environmental performance of the contractors on past jobs, not their theoretical systems.

At the end of the first stage of the review the total scores were as follows:

John Holland 72/75 Several strengths including: site restoration; protection of threatened species; erosion and sediment control; management of waterway crossings and biosecurity. They demonstrated an innovative and cooperative approach with a willingness to put in extra controls beyond what initially expected, especially for biosecurity.

Bovis Lend Lease 55/75 On average met required controls; some minor areas only improved following inspection, but overall demonstrated a willingness to improve.

McConnell Dowell 53/75 On average met required controls, good training, some minor areas only improved following complaint, but willingness to improve.

Jemena 44/75 Referee experienced difficulty with reaching agreement as to standards of work required under contract and gaining access to the site, contractor did not accept advice willingly.

Given the large variation in the scores between John Holland and the three other companies a second referee check was undertaken for John Holland. To ensure the veracity of the results a different project was utilised for the review. On the second referee review John Holland scored 69/75, consistent with the initial results.

The main strengths identified by the review were their positive attitude and proactive approach towards environmental management, their willingness to accept advice and demonstrated improvement in environmental management over the last six years.

The above review process clearly indicates, based on the matrix of questions asked, John Holland has the highest environmental performance of the tenderers on previous like projects. It is important to note that the environmental performance of a company on a project is reliant on the attitude and commitment of the project manager and their team on the project.

Process Review

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

RISK ASSESSMENT

General

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken; for example, design work versus construction work; and the type of contract, for example Lump Sum versus Schedule of Rates.

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the Contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the Contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen circumstances, for example, additional works that may become necessary during the course of the project.

Contract Risks

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

Generic Risks

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of Contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of New South Wales Government GC21 (Edition 1) General Conditions of Contract, which include dispute resolution mechanisms.
- The MMLP project has adopted General Conditions of Contract, GC21, which is now recognised as the preferred General Conditions of Contract for major construction projects across government. GC21 has a strong emphasis on co-operative contracting and enhanced communication which has proven to be highly effective, resulting in a significant reduction in the level of contract disputation.

Specific Risks Leading to Contract Variations

The following are the major risks that Council bears in relation to this contract:

- The quality of the design is sub-standard resulting in additional costs during the construction phase. Mitigated by appropriate technical reviews by others to ensure design meets requirements.
- Changes to regulatory design standards requiring project re-design. Mitigated by using latest information in tender documents and minimising delays in award of contract.
- Brief does not adequately cover all required work and additional investigations are found to be necessary during the consultancy. Mitigated by preparation of comprehensive Brief and peer review of documentation prior to inviting tenders.
- Quantities for work items under the contract are greater/lesser than pre-award estimates leading to variation claims by the contractor. Mitigated through the tender process by requiring specified rates for each work item under a Schedule of Rates arrangement with upper and lower control limits. Contract payments are then calculated by multiplying the actual quantity for each work item by the tendered rate. Actual quantities are confirmed by Council through measurement / survey prior to payment.

Risk Contingency

The above risks were considered for this contract and given the value of the contract and the nature of the work, it is recommended that a contingency sum of \$12,843,066.91, (excl GST) representing approximately 20% of the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is an acceptable probability that the contract budget of \$77,000,000.00, (excl GST), which incorporates the contingency allowance, will not be exceeded.

BUDGET

The Mardi to Mangrove Link Pipeline will be jointly funded by the Federal Government through a commitment to provide \$80.3 million, (excl GST) to fund elements of the project and Wyong Shire Council and Gosford City Council who, together, will provide the balance of funds on a 50/50 basis.

Based on the tender price received from John Holland Pty Ltd, the existing budgetary arrangements, approved by both Councils, are sufficient to accommodate the predicted final project budget and, at this stage, there are no budgetary reasons to prevent the project from proceeding. Project costs are estimated to be in the order of \$120 million. This figure will be reviewed following confirmation of other agreements being resolved and will be reported to the Project Control Group in January 2010.

Both Wyong Shire and Gosford City Councils' have confirmed the availability of the balance of funds required for the Mardi to Mangrove Link Pipeline project.

Alternatives

As part of the discussions with Hunter Water Corporation in relation to the potential for additional integration between the two systems a number of options were considered. These included:

- Joint participation in the development and construction of the proposed Tillegra Dam.
- Joint participation in the raising of Mangrove Creek Dam to 430,000 ML combined with a major new transfer system between Mangrove Creek Dam and South Wallsend.

In considering the Tillegra Dam option Council staff have undertaken financial assessment to determine an appropriate project cost to warrant moving from Mardi – to – Mangrove to Tillegra Dam and there is no financial benefit to Council to consider Tillegra unless the Mardi to Mangrove project exceeds \$180 million and even in this unlikely situation the risk of Tillegra proceeding and the time to implement is significantly greater than Mardi to Mangrove.

The option involving the raising of Mangrove Creek Dam to meet the Hunter's long term water needs was estimated to have a higher capital and operating cost whilst at the same time providing a lower yield when compared to the proposed Tillegra Dam. Additionally this option would involve the transportation of water over very long distances requiring high levels of energy (south from the Williams River to Mangrove Creek Dam for storage and then back to the Hunter's customers).

Following these discussions Hunter Water decided to continue to develop Tillegra Dam and the Central Coast decided to develop the Mardi to Mangrove link project.

RESOURCE MANAGEMENT

Construction Management

In August 2009, the Gosford / Wyong Council's Water Authority considered the management of this contract and noted that the proposed method of construction management (including the management of this contract) was by way of appointment of the Department of Commerce – now the Department of Public Works.

The advantages of utilising the Department of Public Works are:

- 1 Tenders do not need to be called,
- 2 The Department of Public Works has a history of large scale engineering related project management and has experience in water pipelines and pumps stations in particular,
- 3 The Federal Government has advised the funding deed requirement to engage a quantity surveyor will not need to be undertaken by the project team as they consider the Department of Public Works (as a part of the state government) to be a suitable method of dealing with this matter and
- 4 Department of Public Works has been inherently involved in the EOI and ETI process and preparation of the tender documents and they have the greatest knowledge of the contractual arrangement between Council and the proposed contractor.

In parallel with the assessment of this tender, the project team has been in consultation with the Department of Public Works regarding an appropriate arrangement for the engagement of their services and an agreement between Council and the Department of Public Works has been agreed at a conservative upper limit amount of \$4,200,000.

Environmental Management

A requirement of this project is the satisfactory management of the environment. This responsibility is the contractors, however Council will also ensure that the Construction Manager (Department of Public Works) is responsible for ensuring the contractual responsibilities for environmental management are undertaken. In order to ensure that environmental matters are being managed appropriately the project team will be engaging an independent environmental officer to provide advice to the Project Manager on the performance of the contractor and to conduct site audits.

TIME-FRAME

The programmed time-frame for the delivery of the project is summarised as follows:

Item	Description	Target Date
1	Execute Deed of Contract Agreement (Commencement of Milestone Nos. 1 and 3)	15 December 2009
2	Commencement of Milestone No. 2	15 June 2010
3	Completion of Milestone Nos. 1 and 2	10 January 2011
4	Completion of Milestone No. 3	18 April 2011

A brief description of each milestone is provided as follows:

- Milestone No. 1: Completion of all construction Works, excluding all works associated with Work Package WP06: Mardi to Mangrove Transfer Pump Station, (Milestone No. 2) and Testing and Commissioning Works (Milestone No. 3)

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- Milestone No. 2: Completion of all work associated with Work Package WP06: Mardi to Mangrove Transfer Pump Station
- Milestone No. 3: Completion of all testing and commissioning works

APPROVALS

The following approvals have been obtained that are required to enable the work under the contract to be undertaken:

- Notice of Determination issued under Part 5 of the Environmental Planning and Assessment Act 1979 for the Mardi-Mangrove Link Project, Application No. LA/120/2009, dated 29 September 2009
- Notice of Determination issued under Part 5 of the Environmental Planning and Assessment Act 1979 for the Bunning Creek Bridge Replacement
- NSW Mine Subsidence Board, on 1 October 2008, provided notification approving the Principal's Design
- DEECW Licence No. 20SL039830 for the extraction of 3,705L/s (based upon maximum daily extraction limit of 320ML/day) from Wyong River
- DEECW Licence No. 20SL028527 for Wyong River Weir modifications

LOCAL CONTENT

The RFT did not require the Tenderers to indicate and/or estimate the extent of local content that would be involved in the contract works. Advice from the Probity Officer indicated that it would be undesirable, on probity grounds, to seek this information from the Tenderers during the Tender Evaluation phase as this was not identified as a weighted evaluation criterion in the RFT or the Tender Evaluation Plan.

Notwithstanding the above, the Panel considered that, due to the size and complexity of the works, the majority of the specialist construction workforce, technical trades and equipment would probably be employed and sourced from outside the local area, however, a significant amount of manual labour, construction materials, including concrete supplies, pipeline bedding materials, etc would be sourced from within the Central Coast.

PROBITY REPORT

A separate report has been prepared by the Probity Officer and issued to the Director Shire Services, advising that the tender evaluation process has been conducted in accordance with the Tender Evaluation Plan and the Probity Plan prepared for this project.

The probity report highlights an anomaly in terminology used by the panel. As discussed above there were a number of minor non-conformances with the submitted tenders in regard to inclusion of proof of accreditation. There were also a number of departures from the principal tender requirements offered by the tenderers as options for Council's consideration.

The evaluation report and this Council report describe the tenders as 'substantially conforming' as this reasonably reflects the fact that the non-conformances are not so significant that the panel was prevented from assessing them fully for decision by Council.

6.4 Contract CPA 159131 - Evaluation and Selection of Tenders for Construction of Mardi to Mangrove Link Project (contd)

The Probity Officer's advice is that all of the tenders should be regarded as non-conforming in a technical probity sense, and notes legal advice that failure to provide the proof of accreditation at the time of tendering rendered at least the preferred tender as non-conforming albeit that it did not prohibit the panel from evaluating the tender. The Probity Officer concludes, however, that, from a probity perspective, the panel's recommendations are in order and that "the process undertaken and described in the Evaluation Report to Council has been accountable, defensible, fair and transparent and capable of withstanding external scrutiny. "

CONCLUSION

The Tender from John Holland Pty Ltd, (Tender No. 3) is the highest ranked Tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that the tender be accepted.

ATTACHMENTS

Nil.

7.1 Tuggerah Lakes Estuary Coastal and Floodplain Management Committee - The Entrance Beach Re-Nourishment

TRIM REFERENCE: F2004/11029 - D02078606

AUTHOR: GW

SUMMARY

Reporting on a recommendation from the Tuggerah Lakes Estuary Coastal and Floodplain Management Committee (TLECFMC).

RECOMMENDATION

1. *That Council accept the recommendations of the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee and specifically;*
2. *That Council defer consideration of an additional seawall at The Entrance Beach until after the release and subject to, the reports and recommendations of the Coastline Management Plan.*
3. *That Council consider sand renourishment to The Entrance Beach from the dredging operations following the acquisition of a dredging licence.*

BACKGROUND

Council at its meeting on the 28 January, 2009 resolved as follows:

Resolved on the motion of Councillor Eaton and seconded by Councillor Webster:

- “1 *That Council receive the report on the Entrance beach Renourishment.*
- 2 *That Council trial a geotextile retaining wall system to retain sand on the Entrance Beach and its position to be determined by Council staff with a consideration of a budget of up to \$250 000 in the 2009-10 budget.*
- 3 *That Council dredge operations place sand to renourish the Entrance beach prior to the next summer season.*
- 4 *That staff report back on the processes and costs involved in adopting such a project.”*

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

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

7.1 Tuggerah Lakes Estuary Coastal and Floodplain Management Committee - The Entrance Beach Re-Nourishment (contd)

On 5 November 2009, staff provided a report to the TLECFMC regarding the trial of the Geotextile retaining wall system at The Entrance Beach with the aim of renourishing the beach.

The Committee resolved as follows:

That the Committee endorse the report on The Entrance Beach Renourishment and recommend to Council that:

- 1 *It defer consideration of an additional seawall at The Entrance Beach until after the release and subject to the reports and recommendations of the Coastline Management Plan.*
- 2 *It consider sand renourishment to The Entrance Beach from the dredging operations following the acquisition of a dredging licence.*

The report on The Entrance Beach Nourishment was provided in response to a previous resolution of Council. At its meeting of 12 November, 2008 Council resolved unanimously on the motion of Councillor Eaton and seconded by Councillor Graham:

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

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

AGAINST: NIL

A copy of the previous report to the meeting of 28 January 2009 is attached for Council's information.

Resolution 2 - The Geotextile Wall Trial

As indicated in the earlier report to Council, any proposal to construct a seawall or groyne to retain sand on the beach faces a difficult path. The Entrance Beach currently has a seawall located at the edge of the rock platform adjacent to the baths. Whilst this existing seawall appears to function as intended, the Department of Public Works (DPW) commented at the time of its construction that the wall would not assist in accumulating sand (ie beach nourishment) but would slow the scouring process. In effect this is most likely what has happened, as the beach has been relatively stable over the last 40 years as indicated by local residents.

Function of a Seawall

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

Alternatively, the dredged sand could be placed on The Entrance Beach.

It must be remembered that the beach will scour at times, especially during strong swell conditions from the south east, and conversely, will rebuild during calmer periods. This is the natural process of all beaches. The Entrance Beach presently enjoys a healthy state with several months of natural nourishment taking place over the calmer winter months. It does not need any additional sand nourishment at present.

Resolution 3 - Dredged sand to be placed on The Entrance Beach

Council is currently in the process of extending its licence from the NSW Department of Primary Industries to dredge The Entrance Channel. The issue of nourishing The Entrance Beach has been included in the application for the licence, but the details of delivering this action are yet to be developed. There are a number of locations in the vicinity of The Entrance Channel such as the channel foreshores and the Entrance North sand dunes which also are being considered for renourishment. The review of current dredging practices being undertaken in conjunction with the licence renewal should provide for a more objective means of determining when certain foreshores should be nourished as opposed to others. There are also some logistical difficulties in transporting the dredged sand across the channel and discharging to The Entrance Beach if there is a significant flow of water across the channel. Additionally, sand will need to be placed on the beach in a form that in some degree is sustainable at least for short periods. Otherwise sand could be lost as fast as it is placed and provide no net benefit. This latter issue is also to be addressed as part of the Coastline Management Plan.

It should be noted that:

- 1 The Licence for dredging needs to be preceded by the Land and Property Management Authority (LPMA) determination of the REF. Hence both Council and LPMA are determining authorities.
- 2 The Licence will only be issued following consultation with relevant stakeholders, especially the TLCE&F Committee and endorsement by DECCW.
- 3 The LPMA have also advised that beach nourishment cannot be considered as an option "*following the acquisition of a dredging licence*" since the REF preceding the issue of the licence will need to fully explore options for disposal of the dredge spoil and account for the impacts and management of the chosen option/s.

Council should also note that since the original resolution of 28 January 2009, large volumes of sand have now accreted at The Entrance Beach. The general loss and accretion of sand from ocean beaches is a part of normal coastal processes. Given there is a significant volume of sand now back on The Entrance Beach, nourishment of this location from the dredging operations may not be necessary prior to the coming summer season.

Resolution 4

Given that a seawall or groyne already exists and functions in a limited capacity, the addition of another wall would be difficult to justify in terms of making applications to the relevant authorities. Approvals for a seawall or groyne will be required from the Department of Environment, Climate Change and Water (DECC&W) and the LPMA. Consideration of the application would be based on the identified need for the seawall and its estimated performance. DECC&W would also need to be satisfied that any such proposal would be considered in conjunction with the process of developing a Coastline Management Plan (CMP) where a strategic approach can be developed in lieu of ad hoc decisions.

7.1 Tuggerah Lakes Estuary Coastal and Floodplain Management Committee - The Entrance Beach Re-Nourishment (contd)

In order to respond to the Councillor's request for information about the costs of the construction and placement of geotextile seawalls, an example of seawalls built at the Gold and Sunshine Coasts in Queensland in 1985 and 2001 seawalls is provided in Attachment 2.

In today's prices to supply, fill and place these geotextile bags would cost approximately \$250,000 and \$500,000 respectively. This would not take into account the following:

- site establishment;
- working around tide constraints;
- site access issues or
- profit margin for contractor. It is also assumed that the sand to fill the containers would be available on site at no cost.

Conclusion

Council is proceeding with the development of its CMP with a draft plan scheduled for consideration by Council in February 2010. The Plan is being developed under the State Government's Coastal Zone Management Process. This is the appropriate forum to consider constructed options such as additional seawalls and weigh them against other management options and this issue has been incorporated into the scope of works for the consultants undertaking the Plan. Any such proposal within the CMP would have far greater chance of gaining the required approvals from government departments as well as potential contributions to its funding when compared to options raised independently.

ATTACHMENTS

- | | | | |
|---|--|-----------|-----------|
| 1 | Report on The Entrance Beach Renourishment resolved at Council's meeting 28 January 2009 | Enclosure | D01540428 |
| 2 | Benchmark Projects Example of Seawalls built at the Gold and Sunshine Coasts in Queensland | | D02022255 |

2 BENCHMARK PROJECTS

2.1 North Kirra Groyne



Fig. 1. North Kirra Groyne

2.1.1 Project location

North Kirra, Gold Coast, Queensland

2.1.2 Date constructed

September 1985

2.1.3 Principal

Gold Coast City Council

2.1.4 Description

120m long x 5m high sand-filled groyne

2.1.5 Cost

~Aus\$350,000 (cost of the rock alternative was estimated at Aus\$600,000)

2.1.6 Project objectives

2.7 Maroochydore Beach Groyne



Fig. 11. Maroochydore Groyne November 2001

2.7.1 Project location

Maroochydore Main Beach, Sunshine Coast, Queensland

2.7.2 Date constructed

November 2001

2.7.3 Principal

Maroochy shire Council

2.7.4 Description

100m long x 2.5m high sand-filled groyne

2.7.5 Cost

Aus\$210,000

2.7.6 Project objectives

7.2 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2009/01723 - D02083883

AUTHOR: SG

SUMMARY

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

RECOMMENDATION

That Council allocate an amount of \$7,325 from the 2009-10 Councillors' Community Improvement Grants as outlined in the report.

BACKGROUND

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

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

THE PROPOSAL

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

OPTIONS

- 1 Approval of applications as submitted will provide a community benefit residents of the Shire.
- 2 Non approval could result in assistance not being provided to the community.

STRATEGIC LINKS

Management Plan

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

Contribution of Proposal to the Principal Activity

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

7.2 Proposed Councillors' Community Improvement Grants (contd)

Link to Key Focus Areas

Funding is available specifically to projects outside of Council's Management Plan.

Financial Implications

Expenditure is approved until the end of the 2009-10 financial year. Unspent approvals lapse 30 June 2010.

CONSULTATION

Applications that met the criteria were distributed to Councillors for their consideration.

GOVERNANCE

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

CONCLUSION

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

Councillors' Community Improvement Grants 2009-10

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION	Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/07/2009 - 30/06/2010	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	150,000
Expenditure up to and including Ordinary Council Meeting of 25/11/2009	2,925	3,900	6,048	4,349	4,441	1,650	850	6,500	5,270	7,535	43,468
Available allocation as at 25/11/2009	12,075	11,100	8,952	10,651	10,559	13,350	14,150	8,500	9,730	7,465	106,532
Proposed Allocations for December 2009	9										
Berkeley Vale Neighbourhood Centre Inc (\$1,500)				250	250						500
Breakthru People Solutions (\$500) (\$375 already allocated)								125			125
The Entrance North Progress Association (\$1,000)				250	250				500		1,000
Toukley RSL Sub Branch (\$1,500) (\$1,250 paid in advance)	150		250				350	500			1,250
Toukley Adult Day Care (\$200) (\$100 already allocated)										100	100
Tuggerah Lakes Reserve Trust (Pioneer Dairy) (\$2,000)	500								1,000	500	2,000
Wyong Public School P&C Assoc (\$3,000)	300	300	250		250		250	250	500	250	2,350
Total Proposed Allocations for 09/12/2009	950	300	500	500	750	0	600	875	2,000	850	7,325
Total Accumulated Allocations as at 09/12/2009	3,875	4,200	6,548	4,849	5,191	1,650	1,450	7,375	7,270	8,385	50,793
Balance Uncommitted as at 09/12/2009	11,125	10,800	8,452	10,151	9,809	13,350	13,550	7,625	7,730	6,615	99,207

ATTACHMENTS

Nil

7.3 Events Co-Ordination - Maximisation of Council's ability to Attend, Support, Manage and Attract events.

TRIM REFERENCE: F2005/01881 - D01972360

AUTHOR: LC

SUMMARY

Report on the cost and benefits of appointing an Events Co-ordinator for Wyong Shire Council's. The report includes consideration of allocation of funds toward three new events from existing budget allocations for the purpose of attracting the benefits of sports tourism.

RECOMMENDATION

- 1 That Council receive the report on maximisation of Council's ability to attend, support, manage and attract events.**
- 2 That Council consider the level of service desired for event co-ordination as part of its deliberations on the four year delivery plan, including the resources required to fund a position.**
- 3 That Council endorse management's proposal to support the following events in accordance the 2009/2010 Management Plan:**
 - **Central Coast Festival of Golf**
 - **NSW U15/16 Rugby League Championships**

BACKGROUND

On June 10 2009, Council considered Notice of Motion concerning the facilitation of the Gathering of the Clans event and resolved to seek a report to Council on the cost benefits of appointing a Shire wide events co-ordinator.

At that meeting, Council resolved in part the following:

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

- 3 That Council consider a report on the cost benefits of appointing a Shire wide events co-ordinator."**

Councillor Briefing

A Councillor Briefing was held on November 11 2009. The agreed direction from that briefing is summarised as follows:

- Agreed definition of WSC roles in events: Attend, Support, Manage and Attract.
- Strategic planning and co-ordination is required to determine benefits of current and future events and make funding decisions based on that.
- Sponsorship should be pursued and a Sponsorship policy is required.
- A calendar of events would assist with avoiding conflicting activities.

7.3 Events Co-Ordination - Maximisation of Council's ability to Attend, Support, Manage and Attract events. (contd)

- Present information in a formal report to Council which also includes:
 - Sponsorship
 - Suggested framework to assist with Strategic Planning
- Costs associated with an event co-ordinator and Council's level and nature of involvement be determined as part of Council's current review of Levels of Service (eg 4YP)

STRATEGIC DRIVERS

Shire Strategic Vision – Objectives and Strategies - Relationship to Events

The objectives and strategies of WSC Shire Strategic Vision (SSV) provide the basis upon which Council may determine its involvement in events on the Shire. The table below indicates the relevant Objective as contained in the SSV and how event involvement could be included in the linked strategies.

	<i>In the future Wyong Shire will be a place where:</i>	<i>We will achieve this by:</i>
	Objective	Strategy
1	Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	<ul style="list-style-type: none"> • Expanding and supporting programs that increase participation among all ages. • Expanding and supporting programs and activities that encourage and enhance neighbourhood connections. • Encouraging and valuing genuine youth participation in the community.
3	Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	<ul style="list-style-type: none"> • Providing and maintaining local and regional community facilities for recreation, culture, health and education. • Providing and maintaining a range of community programs focused on community development, recreation, culture, environment, education and other issues. • Providing recurrent funding for community support and development services. • Promoting community facilities to help maximize their benefits and use.
6	There will be a strong sustainable business sector and increased local employment built on the Central Coast's business strengths.	<ul style="list-style-type: none"> • Providing a coordinated approach to business generation, employment and development for the region. • Identifying and leveraging the competitive advantages of Wyong Shire. • Actively promoting the business benefits of Wyong Shire. Creating a single executive level voice to attract employment generating development to the

	<i>In the future Wyong Shire will be a place where:</i>	<i>We will achieve this by:</i>
	Objective	Strategy
		<p>Central Coast and negotiating in liaison with all relevant agencies.</p> <ul style="list-style-type: none"> • Supporting the development of a major Conference Centre in the Shire. • Sourcing tourist attractions across the Shire.

ROLE DEFINITION

A role based model has been developed which identifies four main roles that WSC currently undertakes in relation to events in the Shire. This model was developed having regard to the current events operating in the Shire (and WSC's level of involvement) and the objectives contained in WSC's strategic documents such as the SSV, Cultural and Community Plans.

The four Roles are defined below:

Identified Roles in Wyong Shire Events

No	Role	Definition	Example
1	Attend	Co-ordinate Council's presence at events for the purposes of PR, education and consultation	Information stalls at events, eg Water information at Flora Festival
2	Support	One or more of the following: Advise, participate on committee, funding—direct and indirect (eg road barriers, staff), giveaways, publicity, administration, grants and sponsorship.	Mardi Gras, KDO, Garden Competition, Warnervale Community Fair, Australia Day
3	Manage	Event ownership by WSC	Photo Comp, NAIDOC, Youth, Bike Week
4	Attract	Actively attract and develop events for the purposes of economic development (eg Tourism and Employment)	Large sporting events, cultural and themed events

WSC is currently involved in over 38 events across the Shire. WSC may have more than one role at any given event. WSC's current role in each event is summarised in the table attached to this report. (Attachment 1)

The first three Roles; Attend, Support and Manage have similar objectives and tasks. The fourth Role; Attract represents a significantly different objective. Accordingly different strategies and resources are recommended to maximise WSC's capabilities.

Summary of Issues

Given the wide scope of WSC's involvement in events, issues have arisen relating to efficiencies, co-ordination, funding, ROI, opportunities and measurement and review of events across all its roles.

PROPOSAL

Framework – Policy and Procedures

A clear theme arising from the above analysis is the need for the establishment of a framework to assist in involvement of events. An inherent obstacle for staff involved in current event support is the lack of clear policy direction. It is therefore critical that Council set out its policy in terms of events and that a plan be developed which defines the process by which WSC can determine its involvement in existing and future events. The policy should have a clearly stated, strategic direction defining WSC's objectives regarding event funding/support/managing etc which is aligned to our Shire Strategic Vision and core Council business.

From this policy WSC will be able to provide a plan that explicitly sets out which events we will/won't support and the financial budget permitted to deliver this plan. This plan needs to be reviewed regularly to ensure such support remains financially viable and aligned to our SSV.

Any events related work is carried out in line with this policy and plan and any proposal which is outside the policy should be brought to Council as a special consideration.

ICAC has issued guidelines on receiving and granting sponsorship that are relevant to Council's involvement in events. The guidelines reinforce the need for a strategic overarching policy and associated procedures.

The policy would then be supported by procedures that assist with WSC promoting a clear and consistent customer service approach to events in the Shire. This would include checklists, nominated responsibilities, what nature of assistance is available, and what regulatory approvals and requirements are needed.

The framework should also address funding application paths, reporting and review requirements to ensure that funding is appropriately distributed in accordance with Policy objectives.

Council has an existing structured framework to provide opportunities for funding to events (Community Benefits Grants) that contribute to the achievement of its Management Plan objectives however has no guidelines to determine if existing involvement or new requests for the other forms of assistance are appropriate in achieving those same objectives. There are other events and monies that are funded directly from the Management Plan. Some groups receive direct funding (eg Town Centre Management via rate levies) toward their operations and also additional funding for specific events. Often these other forms of assistance are a result of past long standing arrangements that have not been reviewed. In addition, event organisers often have an expectation that Council will also provide in-kind support in addition to any direct grant funding.

OPPORTUNITIES

There are also two opportunities that WSC may pursue in respect of events; Sponsorship and Attraction of new events.

Sponsorship

It is considered that the pursuit of Sponsorship opportunities would significantly assist WSC and the community in achieving objectives. Any pursuit of sponsorship and associated processes needs to be open and transparent. ICAC has issued guidelines to assist councils in the development of Sponsorship policies and procedures. Good governance practice would also include Gifts and Donations, both incoming and outgoing. These items may not specifically relate to events and therefore, any component for Sponsorship should be kept separate from a Policy on events, with appropriate linkages.

Attract

There is potential for WSC to attract events to the Shire that will generate significant economic benefit.(such as those listed in the Upcoming Events Section of this report). Currently WSC approaches support of these types of events in an adhoc fashion and some difficulties arise due to a lack of strategic policy, ownership and clear processes. A sound strategy would provide Council with a sound basis to determine the best events to attract and identify the following:

- Registered sporting associations and their “up the line” affiliations. Council will identify appropriate local sporting associations.
- Human capabilities within local sporting associations – determination of human resources and their capacity to host events and at the various levels eg regional, state, national.
- Sports infrastructure – a physical stock-take of Council and non-Council sporting infrastructure used by local sporting associations with “up-line” affiliations to determine the destination’s ability to host ‘which sport’, ‘which camp’ and at ‘what level’.
- An assessment of the types of social and cultural events that are best suited for our region
- The ability of TCM’s to attract and manage large events on WSC’s behalf
- Transport linkages of road, rail and air to identify the ability of competitors to access the destination and move within it
- Tourism infrastructure, identifying accommodation by type and configuration which will quantify maximum bedding capacity.

Feedback from state and national sporting associations indicates that there is strong potential for Wyong (or Central Coast) to become a serious player in the sports and events industry. The geographic positioning in relation to Sydney International Airport, state and national sporting association offices and critical mass (in terms of competitors/members), are cited as the key reasons.

Recent social and cultural events that have proven to be very popular and provided a significant boost to the local economy are Chrome Fest and the Country Music Festival attracting attendances of approximately 25,000 each.

With Town Centre Managements (TCM) now actively pursuing events to provide economic stimulus for their areas there is an opportunity for WSC to assist the TCM’s in leveraging greater outcomes via development of strategic frameworks that use the TCM’s as vehicle for event opportunities.

Regional Approach

Currently there is a risk of events occurring across the Shire and the region on an adhoc basis with conflicting priorities resulting. It would be beneficial for a regional approach to be undertaken in the attraction of new events.

An opportunity to fund a separate position that would develop a strategy and framework for the attraction of events in Wyong Shire and also consider regional initiatives is available via grant funding from the Department of Industry and Investment (DI&I). The funding would be up to \$30k with Council required to match the funds as a condition of the grant. After the strategy and framework is completed Council would then be in a position to consider if future additional resources were required to support the Attract component.

On an additional note, the idea of engaging a Regional Events co-ordinator was raised at a recent meeting of Central Coast Tourism. The concept was based on possible funding from the Department of Industry and Investment and a regional approach partnership between government, councils and private industry to engage a Regional Co-ordinator who would:

- Link events with tourism and business
- Do an audit of available facilities
- Attempt to ensure scheduled major events do not conflict with each other
- Build on existing local brands such as the Mariners
- Represent regional interests
- Liaise with similar positions at both councils.

The Board agreed to receive a future report on the matter. It is not considered that the idea would conflict with either of the current proposals outlined in this report and could be taken into consideration by the role that would be developing the Attract strategy and framework.

OPTIONS

The issue of WSC's engagement in events is fundamentally a matter of choosing the extent to which Council wishes to engage and for what purpose. Relevant to that consideration is how the activity is consistent with the goals and priorities of the Shire Strategic Vision and linked WSC plans.

In working towards the achievement of the Shire Strategic Vision Council will determine which high level strategies and ensuing programs it will develop and facilitate in both the short and long term. Examination of existing and future requests for assistance with events will focus primarily on how the events are consistent with goals of the Vision. In pursuing the strategies Council must choose the extent or level of facilitation it believes will be necessary in order to ensure its success. It is recommended that WSC consider these issues in their current workshops which are determining its 4 year Delivery Plan and associated 10/11 Resource Plan.

Scope and Responsibilities of Events Co-ordinator Position

The appointment of a position within WSC that has the responsibility of co-ordinating Council's involvement and assistance with events being run by other groups and individuals across the Shire and by WSC.

The table below indicates the proposed responsibilities and tasks to be assigned to the Events Co-ordinator. Given that WSC is involved in a large number of events, it is not intended that the position provide direct "hands on" assistance to each event, but that it focus on co-ordination of resources already available within the organisation to a previously agreed level of service. A priority for the role is to assist management in developing service level agreements to ensure that Council resources are being applied efficiently and equitably.

Description	Benefit
Co-ordinate Council's Involvement with events	To enable efficient and equitable distribution of Council resources in a manner that provides maximum benefit to the events in which Council is involved.
A strategic approach to Council involvement in events across the Shire	<ul style="list-style-type: none"> • Developing monitoring and evaluation tools to track attendance, benefits, consistency with Council's Management Plan objectives and Councils continuing role. • Recommending to Council the type and level of involvement in existing and new events across the Shire. • Accurate definition of costs to Council for budgetary planning • Assist decision making regarding the support of existing and new events • Identify areas where events overlap or are providing similar benefit to community • Develop a "fast track" holistic approval process for minor events on Council land
Develop a calendar of events in which Council is involved	<ul style="list-style-type: none"> • Provide an information register for all staff when fielding inquiries • Provide information to the community in respect of Council's involvement in events
Provide a point of contact for community in an advisory capacity	<ul style="list-style-type: none"> • Promote Council's image as a professional organisation serving the community • Provide consistency of information to community
Liaise with Grants Officer to provide assistance to community groups seeking event funding	<ul style="list-style-type: none"> • Assist community groups to achieve levels of self, State or Federal funding or corporate sponsorship so that events are not solely reliant on Council funding for success
Develop Service Level agreements with event initiators defining Council's role	<ul style="list-style-type: none"> • To enable efficient and equitable distribution of Council resources in a manner that provides maximum benefit to the event.
Liaise with Communications section	<ul style="list-style-type: none"> • Provide professional and co-ordinated media coverage of events • Co-ordinate professional staff involvement at events • Co-ordinate Council's public presence at community events.
Oversee contracts for major shire-wide events	<ul style="list-style-type: none"> • To enable efficient and equitable distribution of Council resources in a manner that provides maximum benefit to the event. • Protect Council's interests.
Development of Guidelines/Codes of Practice	<ul style="list-style-type: none"> • Support events within the Shire by external agencies by providing clear advice

7.3 Events Co-Ordination - Maximisation of Council's ability to Attend, Support, Manage and Attract events. (contd)

Description	Benefit
Develop contacts register	<ul style="list-style-type: none"> • Provide links to the Shire's Tourism and industry
Co-ordinate Council's foyer displays	<ul style="list-style-type: none"> • Provide consistency
Attendance at Panel Meetings	<ul style="list-style-type: none"> • Provide professional advice to decision making panels eg Community Benefit/Cultural Grant funding
Assess validity of current and future events.	<ul style="list-style-type: none"> • Provide efficient distribution of Council resources.
Sponsorship	<ul style="list-style-type: none"> • Potential to attract additional resources to fund local events
Liaise with Economic Development Manager	<ul style="list-style-type: none"> • To co-ordinate events within Town Centres and seek business support

FINANCIAL IMPLICATIONS

There is no funding allocation in Council's current Management Plan for an additional position for Event Co-ordinator or matching grant funding for a separate temporary position to develop a strategy and framework for the attraction of events. The following estimated costs may be used in the consideration of WSC 4 YP and Resource Plan for 10/11:

Role	Purpose	10/11 Budget Consideration
Attend	Staff presence at selected events (10 per year)	\$20k
Support Manage	Event Co-ordinator (see detail in table above)	\$90k
Attract	Develop regional framework and plan for Attraction of future events Attract Events	Apply for funding DI&I. Up to \$30k matched funding if approved Possible allocation in future years

SUMMARY

The appointment of an Events Co-ordinator would contribute to Council's public image by providing a well informed point of contact and co-ordination for the community. The role would also serve to provide strategic direction for decision making process in terms of determining the level and type of support Council should be giving to various existing and future events. In addition the role will serve as a central co-ordination point to rationalise the use of Council's resources thus providing for greater efficiencies across the organisation.

In working towards the achievement of the Shire Strategic Vision Council will determine which high level strategies and ensuing programs it will develop and facilitate in both the short and long term. Council must choose the extent or level of facilitation it believes will be necessary in order to ensure its success. It is in this context it is recommended that Council adopt an Events Policy and develop an associated plan which provides the framework required to ensure that the support and funding for events for Wyong Shire is managed in an equitable, open and accountable manner.

UPCOMING EVENTS

During a presentation to Council by Complete Sports Marketing (CSM) a list of events that could be secured by the Central Coast was tabled for WSC consideration. An additional request for support of a sporting event has also been received from the Wyong Chamber of Commerce. The table below indicates those events and the current status for securing the event.

Event	Date	Competitors	Council Support	Status	Projected Economic Benefit
Central Coast Festival of Golf (Wyong Chamber of Commerce) including Golf Expo Day	22 – 26 March 2010	600 (additional 3,000 at Expo)	\$15,000	Recommended to pursue	\$336,000 (competitors) \$336,000 (expo)
NSW U15/16 Rugby League Championships	3 – 4 July 2010	200 competitors over 2 days	\$5,000	Recommended to pursue.	\$160,000
Basketball -NSW Waratah League and state final weekend	August 2010	350 competitors	NA	Secured by Gosford City Council	NA
Basketball – NSW Schools Tournament	September 2010	250 competitors	NA	Secured by Gosford City Council	NA
Basketball – National U/18 Championships	April 2010	500 competitors	NA	Secured by Wollongong region	NA
Basketball – NSW Old Age Tournament	2010	250 competitors	NA	Secured by Gosford City Council	NA
NSW Junior State Touch Football Cup	2012	4000 competitors over 2 days	Hosting Fee unknown	Not confirmed. However if WSC wish to pursue CSM advise a good chance of success.	\$1,152,000
NSW Country Athletic Championships	January 2011	600 competitors	Hosting Fee unknown	Not confirmed. However if WSC wish to pursue CSM advise a good chance of success.	\$86,400
NSW Surf Lifesaving Titles	2011-2013	8,000 competitors	Hosting Fee unknown	WSC has made a separate bid	\$2,304,000

Event	Date	Competitors	Council Support	Status	Projected Economic Benefit
NSW IRB Championships	June/July 2010	240 competitors over 2 days	In kind support	WSC could make application through Central Coast Lifesaving with no hosting fee	\$69,120
NSW Inter Branch Championships	December 2010	500 competitors over 2 days	In kind support	WSC could make application through Central Coast Lifesaving with no hosting fee	\$144,000
NSW U15 Boys Football (Soccer) Championships	July 2010	144 competitors	NA	Secured at Wagga Wagga	NA

Estimated Economic Benefit Based on ABS Information

*Sports Tourism Events direct spend \$144 pp, per day

^ Leisure Events direct spend \$112 pp, per day

Further details concerning the recommended events is contained in Attachment 2 to this report.

Funding is planned within the 09/10 Management Plan under 2.1.10 Marketing and Promotions – Sports Tourism events. The two events above were chosen in the first instance as they matched the reason for which Council allocated the funds and are a good preliminary step toward aligning with strategy.

CONCLUSION

Event management currently occurs with WSC in an unco-ordinated manner resulting in a less than desirable return on WSC investment of time, resources and money. Continuing in the current fashion is the least favourable of the solutions available.

Managing WSC varied engagement with events through a dedicated resource will satisfy many of the basic concerns.

The appointment of an events co-ordinator to develop and manage a strategic approach to the Attendance, Support and Management of existing and future events is an efficiency improvement that will be measured in better value for money and consistent with the Four Year plan considerations.

A regional strategic approach is recommended for the role WSC plays in attracting new events to the Shire so that opportunities to align events with the SSV are capitalised upon. This role should be separate to the functions of event attendance, support and management.

ATTACHMENTS

- | | | |
|---|---------------------------------------|-----------|
| 1 | Role Analysis by Event | D02084268 |
| 2 | Upcoming Events - Request for Funding | D02089568 |

Role Analysis by Event

Event	Section	Role			
		1 Attend	2 Support	3 Manage	4 Attract
Ad Hoc events as a result of Council resolutions	Various	☀	☀	☀	☀
Australia Day	Community Development Shire Services Administration Executive Water Communication	☀	☀	☀	
Bike Week	Open Space & Recreation/Community Development			☀	
Business Expo	Business Development	☀			
Central Coast Community Congress	Community Development Future Planning		☀		
Central Coast Country Music Festival	Various		☀		
Clean Up Australia Day	Community Development			☀	
Clean Up Australia Day - Schools	Community Development		☀		
Dads Day Out	Water Communication	☀			
Flora Festival	Open Space & Recreation Water Communications	☀	☀		
Gathering of the Clans	Open Space & Recreation		☀		
GOATS	Community Development Water Communications	☀	☀		
Harmony Day	Community Development Future Planning			☀	
International Day for People with a Disability	Community Development			☀	
International Day of Older Persons	Community Development			☀	
International Women's Day	Community Development Future Planning			☀	
KBT Annual Community Day	Community Development		☀		
Kids' Day Out	Community Development Water Communications	☀	☀		
Library Displays	Shire Services	☀			
Mayor's Community Christmas Function	Executive			☀	
NAIDOC Week	Community Development Future Planning			☀	
New Years Eve The Entrance			☀		
Ourimbah Literacy Festival	Future Planning	☀	☀		
Paws and Claws for a Cause	Communcations Compliance	☀	☀		
Seniors Week	Community Development Future Planning	☀		☀	
Reconciliation Week	Community Development Future Planning	☀		☀	
Shopping Centre Displays	Various	☀			
The Entrance Mardi Gras	Various	☀	☀		
Warnervale Spring Fair	Community Development Future Planning Water Communicatios	☀	☀		
Welcome to Wyong	Community Development Future Planning			☀	

Event	Section	Role			
		1 Attend	2 Support	3 Manage	4 Attract
Wyong Shire Festival of the Arts	Corporate Service Future Planning Executive		☼		
Wyong Shire Photo Competition	Corporate Services Future Planning			☼	
Youth Week	Community Development	☼		☼	
National Tree Day & Schools National Tree Day	Community Development Open Space & Recreation		☼		
Chromefest	Business Development		☼		☼
NSW Body Board Festival	Business Development		☼		☼
Festival of Golf	Business Development		☼		☼
Dragon Boats	Business Development		☼		☼
East Coast Surf Festival	Business Development Water Communications	☼	☼		☼
Small Business Expo	Business Development Water Communications	☼	☼		☼
TOTAL	Business Development	18	23	15	6

UPCOMING EVENTS REQUEST FOR FUNDING

Applicant	Event	Location of Event	Date of Event	No Participants	No Other Attendees	Projected Economic Benefit	Additional Opportunities	Funding
Wyong Chamber of Commerce	Central Coast Festival of Golf	Wyong Golf Club, Kooindah Waters Golf and Spa Resort, Quay West Magenta Shores, Tuggerah Lakes Golf Club, Toukley Golf Club.	22-26 March 2010	600* (est)	3000^ (1 day expo)	\$336,000 (competitors) \$336,000 (expo)		\$15,000
Complete Sports Marketing	U15s and U16s State Rugby League Championships	To be determined	3-4 July 2010	200*	360^	\$160,000	Council nomination of "official social hub for event" and seek sponsorship fee Council nomination of "official accommodation booking service" and seek sponsorship fee	\$2,500 hosting fee to State RL \$2,500 to CSM

ABS Information

*Sports Tourism Events direct spend \$144 pp, per day

^ Leisure Events direct spend \$112 pp, per day

7.4 Competitive Grant Funding Surf Life Saving Clubs

TRIM REFERENCE: F2004/06305 - D02084470

AUTHOR: SB

SUMMARY

This report provides a recommendation for Councils application under the competitive arm of Round two of the Regional and Local Community Infrastructure Program (RLCIP).

RECOMMENDATION

That Council approve the two surf life savings clubs, Soldiers Beach and Shelly Beach, to be the selected redevelopment projects for the competitive component Commonwealth Government Regional and Local Community Infrastructure Program (RLCIP) Grant Fund to a total value of \$5,000,000.

BACKGROUND

As reported to Council at the Ordinary Meeting on the 11 November 2009, the Australian Government has made an additional \$220m available to boost the Regional and Local Community Infrastructure Program. This investment is intended to support local jobs during the global economic recession and provide long-term benefits to communities by assisting councils to build and modernise local infrastructure.

The Regional and Local Community Infrastructure Program (RLCIP) has two components; a \$100m allocated component and a \$120M competitive component.

In relation to the allocated component, Council at its meeting held on 11 November 2009 resolved on the motion of Councillor Vincent and seconded by Councillor Wynn the following:

“That Council approve the community buildings nominated in Attachment 1 being the selected projects for the Allocated Commonwealth Government Regional and Local Community Infrastructure Program (RLCIP) Grant Fund to a total value of \$648,000.”

Strategic Projects for the \$120 Million Competitive Component

Consultation has taken place with community stakeholders and the Federal Member as part of determining a suitable project for the competitive component of the RLCIP. As a result it has been determined that redevelopment of two Surf Life Savings Clubs will meet the criteria from both the community perspective and the requirements of the RLCIP.

The two Surf Life Saving Clubs (SLSCs) are at Soldiers Beach and Shelly Beach. Of the six SLSCs in Wyong Shire these two SLSCs have been identified through community consultation with stakeholder groups and a needs analysis undertaken by Council as warranting replacement.

The total cost of the two projects is approximately \$6M, representing \$3M for each club.

Council has \$3M from the sale of land allocated to the refurbishment of SLSCs. If successful in this bid then a total of \$8M will be spent on the clubs. \$6M on the redevelopment of the two SLSC buildings as described above and the remaining \$2M on refurbishment at Lakes Beach SLSC, North Entrance SLSC and The Entrance SLSC.

Accordingly, it is proposed that Council applies for \$5M in grant funding from the competitive component of the RLCIP and utilises an existing \$1M of a \$3M Council allocation for SLSC upgrades to meet the difference in cost.

General information on the \$120M competitive component includes:

- Applications Close 4:00pm on the 15 January 2010
- All projects must be completed and the funding expended no later than 30 June 2011
- Strategic Projects funding will be available on a competitive basis for a limited number of large strategic projects seeking a minimum Commonwealth contribution of \$1 million.
- Preference will be given to projects which can demonstrate community benefit.
- Partnership funding is required and preference may be given to projects with greater co-contributions.
- Consideration will be given to whether Councils have completed their \$250 million RLCIP projects.
- Eligible projects must be additional, ready-to-proceed, or additional stages of current projects.
 - Additional projects are those which have not been included in the Local Government's financial budget for 2009/10 and can be brought forward as a result of RLCIP-SP funding.
 - Projects that are ready-to-proceed are those that will begin construction within six months of signing the Funding Agreement (contract).
- Examples of the outcomes sought from the Strategic Projects are:
 - an increase in employment,
 - improved community services,
 - expansion of infrastructure to service a larger proportion of the community
 - upgrades to community facilities which result in community benefits or an increase in community capacity.
- Projects must provide a clear, direct and measurable benefit to local communities.
- Applications will have a greater chance of success if they can quantify or otherwise demonstrate what the project will achieve, what the ongoing community benefits will be and how the project is sustainable.

It is therefore recommended that Council approve the two surf life savings clubs, Soldiers Beach and Shelly Beach, to be the selected projects for the competitive component Commonwealth Government Regional and Local Community Infrastructure Program (RLCIP) Grant Fund to a total value of \$5,000,000.

ATTACHMENTS

Nil.

7.5 CCTI Funding Alternatives

TRIM REFERENCE: F2004/07096 - D02094303

AUTHOR: GM

SUMMARY

Reporting on applications from organisations to access funding to conduct events that market and promote the regions of the Shire. The funding was previously allocated to Central Coast Tourism (CCTI).

RECOMMENDATION

That the report on CCTI Funding Alternatives be submitted for consideration.

BACKGROUND

Council at its meeting held on 27 May 2009 resolved on the motion of Councillor Eaton and seconded by Councillor Webster resolved as follows:

- "1 That Council in considering adoption of the 2009-10 Management Plan, consider amending it so that the \$175,000 allocated to CCTI be reallocated to a program providing for project funding, relating to tourism marketing and promotions, that generates significant employment opportunities.*
- 2 That Council staff report on the implementation of this resolution.*

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

AGAINST: NIL."

Since the adoption of the resolution in May, Council has had a number of discussions with CCTI concerning the allocation of funding. Indeed CCTI made application to Council to support the operation of The Entrance Visitors Centre at a cost of \$222,000 + GST. As this submission related to ongoing core business of CCTI, it did not seem to fit Council's intention in regard to funding for specific projects. Discussions in regard to alternative models for operation of The Entrance Visitors' Centre are still ongoing.

Applications have also been received from The Entrance Town Centre management and Toukley Greater Vision to access funding in accordance with Council's direction given at the ordinary meeting of the 27th of May 2009. The projects identified by these organisations are listed in the table below;

Organisation	Project	Funding Required
The Entrance Town Centre Management	<p>Provide financial support for the Central Coast Country Music Festival that has been held at The Entrance for the past 10 years. The festival is expected to attract approximately 50,000 people to the event, injecting over \$2 million into the local economy and be promoted to over 2 million people via marketing and promotional strategies.</p> <p>In 2006/7 and 2007/8 Council funded this event through the Community Benefits Grants Scheme in the order of \$20,000 per year. In 2008/9 an amount of \$20,000 was allocated in the Management Plan for this event. It was not carried in to the 2009/2010 Management Plan and accordingly, the Town Centre applied for funding under the Community Benefits Grants. This application was rejected. It was declined because the application did not show any ability to self fund and therefore compliance with guidelines which aim to increase self-funding rather than encourage recurrent grant funding. Comment was made that the application may fall under tourism funding.</p>	\$22,000
Toukley Greater Vision	<ol style="list-style-type: none"> 1 Produce a visitor's information guide for Greater Toukley. \$5,545 2 "Take a look at Toukley" Teaser, this is a small supporting document that provides visitor information to the general community. \$1,858 3 Greater Toukley Promotional Stand. The stand would be developed and used to promotional purposes and events such as the Central Coast Expo at State Parliament. \$4,230 4 Newspaper Advertisement. It is proposed to develop a specific advertising program that would target specific areas such as western Sydney to attract more tourists to the Toukley region. \$5,000 5 Soldiers Beach Body Board Pro Festival. This event has been supported by Council for the past two seasons and has proved to be very successful. Greater Toukley region wish to elevate the upcoming event to a world standard tournament and therefore require an additional funding to support this strategy. Greater Toukley Vision has been allocated \$10,000 in the 2009/2010 budget to conduct the NSW Body Boarding Championships and they are now seeking an additional \$8,000. \$8,000 	

These requests have been held pending council's resolution of the funding issue relating to Central Coast Tourism.

ATTACHMENTS

1 2009 - Country Music Figures D02097029



The Entrance Town Centre
Management
Corporation Inc.
ABN 58 079 298 108
211b The Entrance Road
PO Box 120
THE ENTRANCE NSW 2261
P 02 4322 5377

Economic Impact CENTRAL COAST COUNTRY MUSIC FESTIVAL 6 - 8 2009

Background

The Central Coast Country Music Festival plays an important role in both the local and regional economy by providing a major injection of economic activity; by spreading the seasonality of tourism; by enhancing and expanding awareness of The Entrance and region as a destination; and, by developing new market segments. Additionally, the Festival generates community and social interaction and sense of community pride.

Economic Impact

Attracting 45,000 people, the 2009 Central Coast Country Music Festival maintained its status as a regionally significant event and generated **economic stimulus** to The Entrance and Central Coast Region of **\$5,181,000.00**. Calculation of the economic stimulus is as follows and uses key factors set out below:

Total Expenditure by Individuals \$2,072,400.00 X 2.5 multiplier = \$5,181,000.00

Key Factors

- Personal expenditure @ \$20.00 per individual (excluding accommodation)
- Accommodation expenditure of \$100.00 per 43.9% of all festival participants who attended from outside the Central Coast.
- Multiplier of 2.5 (based on the accepted multiplier for similar events of between 2 – 4.)

Calculation

Personal Expenditure	45,000	x \$20.00 per individual	\$ 840,000.00
Accommodation Expenditure	10,270	x \$100.00 per individual	\$1,020,700.00
Total Expenditure by Individuals			\$2,072,400.00

Data Collection

A sample survey of 750 of the 45,000 participants indicates a number of key factors in relation to visitation patterns and accommodation and draws personal expenditure. (Note: the sample survey of 750 is both a typical and sufficient number of responses by ratio to attendance to confidently apply survey data with relative high degree of accuracy across total attendance figures.

Visitation

- Of the total number of survey responses 44.3% of respondents attending the Festival resided on the Central Coast while 55.7% of respondents attending did so from areas outside the Central Coast
- A breakdown of the 55.7% of survey respondents attending the Festival from areas outside the Central Coast, indicates the following:
 - 20.4% came from the greater Sydney area
 - 13.4% came from the Hunter Valley
 - 20.0% came from other areas of NSW
 - 1.4% came from interstate

Accommodation and Length of Stay

- Of the total number of respondents attending the festival from areas outside the Central Coast, 43.9% stayed overnight within the region
- The average length of stay by the 43.9% of respondents who stayed overnight was 2.6 days

9 December 2009

Board/Committee/Panel Meeting
Report

To the Ordinary Meeting

Corporate Services Department

8.1 Minutes - Wyong Shire Grants Committee Meeting - 27 November 2009

TRIM REFERENCE: F2008/02110 - D01964586

AUTHOR: ED

SUMMARY

A meeting of the Wyong Shire Grants Committee was held on 27 November 2009.

RECOMMENDATION

That Council receive the minutes of the Wyong Shire Grants Committee Meeting held on 27 November 2009 and adopt the recommendations contained therein.

BACKGROUND

A meeting of the Wyong Shire Grants Committee was held on 27 November 2009. The minutes of that meeting are attached.

ATTACHMENTS

- | | | |
|---|--|-----------|
| 1 | Minutes of the Wyong Shire Grants Committee Meeting 27 November 2009 | D02092429 |
|---|--|-----------|

WYONG SHIRE COUNCIL

MINUTES OF THE
WYONG SHIRE GRANTS COMMITTEE MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 27 November 2009
COMMENCING AT 3.13 PM

PRESENT

COUNCILLORS D J EATON (CHAIRPERSON), L A MATTHEWS AND ACTING MANAGER GOVERNANCE AND ADMINISTRATION SERVICES.

IN ATTENDANCE

ACTING MANAGER CUSTOMER AND COMMUNITY SERVICES, CULTURAL PLANNER AND AN ADMINISTRATION ASSISTANT.

THE CHAIRPERSON, COUNCILLOR D J EATON, DECLARED THE MEETING OPEN AT 3.13 PM AND ADVISED THAT THE MEETING IS BEING RECORDED.

APOLOGIES

APOLOGIES FOR THE INABILITY TO ATTEND THE MEETING WERE RECEIVED ON BEHALF OF COUNCILLORS R L GRAHAM AND D P VINCENT.

COMMITTEE RECOMMENDATION

That the Committee accept the apologies and grant leave of absence from the meeting.

DISCLOSURES OF INTEREST**1.1 Disclosures of Interest**

RECOMMENDATION

That Members now disclose any conflicts of interest in matters under consideration at this meeting.

COMMITTEE RECOMMENDATION

That the report and the fact that no disclosure was made be noted.

CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**2.1 Confirmation of Minutes of Previous Meeting****COMMITTEE RECOMMENDATION**

That the minutes of the previous Wyong Shire Grants Committee Meeting held on 20 September 2009 be accepted.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

GENERAL REPORTS**3.1 Cultural Development Grants - Applications****COMMITTEE RECOMMENDATION**

That a report be referred to Council recommending:

- 1 An allocation of \$30,000 from the 2009-10 Cultural Development Grant Program as follows:**

Organisation	Project name	Decision \$	Staff Comments	Committee Comments
Indian Educational and Cultural Association	Celebrate India Australia Day (26th Jan) to bring both cultures together	\$5,000	Has good potential for celebrating cultural diversity and providing bridging opportunities between an emerging community and the broader community. The project management plan is adequate but lacks detail to support the level of funding sought. Partial funding recommended.	Support staff comments. Consideration should be given to media coordination with other Australia Day events.
Toukley & Districts Art Society Inc.	Toukley & Districts Art Society Inc. Additional Professional Easel & Porcelain Workshops	\$3,000	Opportunity for increased participation in the arts focusing on the popular medium of porcelain and crafts. Limited information was provided on promotional strategy and expected participation levels. Partial funding recommended.	Support staff comments.

Organisation	Project name	Decision \$	Staff Comments	Committee Comments
Tuggerah Lakes Potters Association, Inc	Kiln Replacement	\$5,500	<i>This organisation contributes their volunteer skills and equipment to provide ceramic services for community projects including Council public art projects as well as increase participation in the arts opportunities for local residents by providing an equipped and staffed venue for ceramics unique to the region. The replacement of the kiln is crucial to the organisation's plans to continue and grow their role. The organisation is meeting the majority of the cost from their own funds.</i>	Support staff comments.
Wyong Musical Theatre Group	Purchase of body microphone equipment	\$3,000	<i>Requested equipment is crucial to the organisation achieving their cultural goals. Financial accounts indicate the organisation has an annual profit and no indication was provided of if this is committed to offset other costs. Partial funding recommended.</i>	Support staff comments.

Organisation	Project name	Decision \$	Staff Comments	Committee Comments
Wyong Neighbourhood Centre	The Youth Street Art Markets	\$10,250	A 12 month pilot workshop program to develop a youth arts market for Wyong township. The project is well designed and structured with appropriate planning and allocation of resources and staffing and promises to provide benefit to a wide range of quality arts practitioners. Includes clear allocation of the organisation's funds and staffing in preparation and implementation.	Support staff comments.
Tuggerah Lakes Art Society Inc	Workshops with tutors of a high calibre to encourage and provide stimulation for their members to move on with their art	\$2,000	A proposal to increase participation in the arts via painting. Limited information provided to demonstrate how the project will attract participants and the expected numbers. Lack of distinction between annual activities (not complying with grant conditions) and one off program (complying). Project budget incomplete and minimal financial contribution from sources other than this grant program.	Support staff comments.
Bateau Bay Artists	Bateau Bay Artists Exhibition	\$300	Opportunity for ongoing development of amateur artists through an exhibition. Additional income sources identified as well as this grant application.	Support staff comments.
Australian Sewing Guild / Central Coast Group	To Further the Art of Sewing	\$500	Involves an increased participation of different age groups and an opportunity for developing as well as showcasing to wider community.	Support staff comments.

Organisation	Project name	Decision \$	Staff Comments	Committee Comments
Coastal a Cappella	Vocal/Perform ance Retreat/ Workshop	\$450	Skills development for community singing. Project timeframe is between September 2009 and February 2010 which is outside of the funding timeframe. Partial funding recommended for 2010 stage.	Support staff comments.

2 Applications be declined as indicated in the table below and the applicants advised and where relevant, directed to alternate funding programs:

Organisation	Project name	Funding Sought \$	Staff Comments	Committee Comments
BetterMan Men's Group	Pitjantjatjara Community Development	\$15,000	The program and management plan lacks substantial detail, no financial statements are provided and the application is not signed. The proposal indicates plans to make this an annual event without any management planning despite the significant costs to be incurred and the substantial amount requested from Council in this first year.	Support staff comments.

Organisation	Project name	Funding Sought \$	Staff Comments	Committee Comments
Toni Rafferty (Author name: Toni Lowing)	My Beautiful Leah Through the Eyes of an Eagle	\$5,000	Printing costs sought for an additional run of a self published book by a Wyong author. The book was written and published in 2009. No project budget of revenue and expenses relating to book sales in 2009 or 2010 is provided. As the book is completed and established, and distribution and sales arrangements are being put into place with Central Coast businesses it is considered this project does not provide rationale or enough information to justify cultural grant funding of this venture.	Support staff comments.

THE CULTURAL PLANNER, STUART SLOUGH LEFT MEETING AT 3.27 PM AND DID NOT RETURN.

3.2 Community Benefit Grants - Applications - Trimester 2 - 2009-10

RECOMMENDATION

- 1 That Council allocate \$32,182.00 from the 2009-10 Community Benefit Grant program as follows:

Applicant	Project	Amount Recommended
Greater Toukley Vision Inc.	Installation and removal of Christmas lights for Toukley Town Christmas Tree	\$3,300.00
Norah Head Search and Rescue Boating Club Inc.	Purchase of Defibrillator for Rescue Vessel Norah	\$4,690.00
Northern Women's Health Centre	Connection with Mothers/Female Carers of children 0-5 through support, singing, percussion and dance	\$1,260.00
Toukley & District Senior Citizens Club Inc.	Upgrade of "Centenary Hall" - Purchase of tables	\$1,000.00
Wyong Neighbourhood Centre Inc.	Youth Arts Development and Training Program	\$15,932.00
Wyong Stroke Support Club	Re-integration and socialisation of people affected by stroke	\$6,000.00
		\$32,182.00

- 2 That Council decline applications as indicated in the table below and the applicants advised and where relevant, directed to alternate funding programs:

Applicant	Amount Asked	Project	Comments
Budgewoi Girl Guides	\$5,500.00	Floor Covering	Capital expenditure - Clause 1.10 "Applications for the following are ineligible:" d "Capital expenditure unless the applicant can demonstrate an exceptional need and show that the equipment applied for is vital to the project and cannot be procured from any other source. In such instances, Council will require two written quotes;". States that "cannot be procured from any other source" however, has not demonstrated that any attempts have been made. In breach of Clause 1.10 e Capital funds, eg building and building maintenance costs;" and Clause 1.5 "Applications should include a degree of self-financing. The level of self-financing may have a bearing on the outcome of applications." No degree of self funding and no demonstration of attempts at fundraising for this item.
Pioneer Dog Training School Inc.	\$5,000.00	Central Coast Pet Expo Wyong	2009 Expo has already taken place. Have advised applicant to re-submit next round for Expo to be held in 2010.

<i>Applicant</i>	<i>Amount Asked</i>	<i>Project</i>	<i>Comments</i>
<i>Long Jetty Hospital Auxiliary</i>	<i>\$476.00</i>	<i>To provide 1 set of leg rests for the Occupational Therapy Department at Long Jetty Health Care Centre (Long Jetty Hospital)</i>	<i>Capital expenditure - Clause 1.10 "Applications for the following are ineligible:" d "Capital expenditure unless the applicant can demonstrate an exceptional need and show that the equipment applied for is vital to the project and cannot be procured from any other source. In such instances, Council will require two written quotes;". No quotes provided therefore degree of self funding cannot be determined. States that "cannot be procured from any other source" however, has not demonstrated that any attempts have been made.</i>
<i>The Entrance Town Centre Management</i>	<i>\$13,000.00</i>	<i>Chromefest</i>	<i>Retrospective funding. Event has already taken place. This application was submitted to Council on 16 September 2008 when CBG 1st Trimester had already closed and 2nd Trimester was not yet open. Would this qualify for Tourism Grant.</i>

COMMITTEE RECOMMENDATION

- 1 ***That Council allocate \$16,250 from the 2009-10 Community Benefit Grant program as follows:***

<i>Applicant</i>	<i>Project</i>	<i>Amount Recommended</i>
<i>Greater Toukley Vision Inc.</i>	<i>Installation and removal of Christmas lights for Toukley Town Christmas Tree</i>	<i>\$3,300</i>
<i>Norah Head Search and Rescue Boating Club Inc.</i>	<i>Purchase of Defibrillator for Rescue Vessel Norah</i>	<i>\$4,690</i>
<i>Northern Women's Health Centre</i>	<i>Connection with Mothers/Female Carers of children 0-5 through support, singing, percussion and dance</i>	<i>\$1,260</i>
<i>Toukley & District Senior Citizens Club Inc.</i>	<i>Upgrade of "Centenary Hall" - Purchase of tables</i>	<i>\$1,000</i>
<i>Wyong Stroke Support Club</i>	<i>Re-integration and socialisation of people affected by stroke</i>	<i>\$6,000</i>
		<i>\$16,250</i>

- 2 That Council **decline** applications as indicated in the table below and the applicants advised and where relevant, directed to alternate funding programs:

Applicant	Amount Asked	Project	Staff Comments	Committee Comments
Budgewoi Girl Guides	\$5,500	Floor Covering	Capital expenditure - Clause 1.10 "Applications for the following are ineligible:" d "Capital expenditure unless the applicant can demonstrate an exceptional need and show that the equipment applied for is vital to the project and cannot be procured from any other source. In such instances, Council will require two written quotes;". States that "cannot be procured from any other source" however, has not demonstrated that any attempts have been made. In breach of Clause 1.10 e Capital funds, eg building and building maintenance costs;" and Clause 1.5 "Applications should include a degree of self-financing. The level of self-financing may have a bearing on the outcome of applications." No degree of self funding and no demonstration of attempts at fundraising for this item.	Support staff comments.

Applicant	Amount Asked	Project	Staff Comments	Committee Comments
Long Jetty Hospital Auxiliary	\$476	To provide 1 set of leg rests for the Occupational Therapy Department at Long Jetty Health Care Centre (Long Jetty Hospital)	Capital expenditure - Clause 1.10 "Applications for the following are ineligible:" d "Capital expenditure unless the applicant can demonstrate an exceptional need and show that the equipment applied for is vital to the project and cannot be procured from any other source. In such instances, Council will require two written quotes;". No quotes provided therefore degree of self funding cannot be determined. States that "cannot be procured from any other source" however, has not demonstrated that any attempts have been made.	Support staff comments.
Pioneer Dog Training School Inc.	\$5,000	Central Coast Pet Expo Wyong	2009 Expo has already taken place. Have advised applicant to re-submit next round for Expo to be held in 2010.	Support staff comments.

Applicant	Amount Asked	Project	Staff Comments	Committee Comments
<i>The Entrance Town Centre Management</i>	<i>\$13,000</i>	<i>Chromefest</i>	<i>Retrospective funding. Event has already taken place. This application was submitted to Council on 16 September 2008 when CBG 1st Trimester had already closed and 2nd Trimester was not yet open. Would this qualify for Tourism Grant.</i>	<i>Retrospective funding. Application withdrawn.</i>
<i>Wyong Neighbourhood Centre Inc.</i>	<i>\$15,932</i>	<i>Youth Arts Development and Training Program</i>	<i>Application deferred to next round of Community Benefit Grants pending discussions with staff on multiple funding of programs</i>	<i>Support staff comments</i>
<i>Wyong Youth Service</i>	<i>\$2,650.00</i>	<i>In the know: "First Aid in our skate parks"</i>	<i>Has not demonstrated selection process of participants or sustainability of first aid education programme. Information obtained from appropriate Council staff indicates that first aid officers are currently available within the youth/community centres where the parks are situated. Injuries are reported infrequently (approximately one every 2/3 months) at Gravity Youth Centre and nil at Blue Haven Community Centre.</i>	<i>Support staff comments.</i>

INFORMATION REPORTS

4.1 Wyong Shire Grants Procedures

COMMITTEE RECOMMENDATION

That Council receive the report on Wyong Shire Grants Procedures.

There being no further business the meeting closed at 3.44 pm.

9.1 Information Reports

TRIM REFERENCE: f2009/00008 - D02085088

AUTHOR: MR

SUMMARY

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

RECOMMENDATION

That Council deal with the following Information Reports by the exception method.

ATTACHMENTS

Nil.

9.2 Minutes - Wyong Shire Senior Citizens' Council Meeting - 22 October 2009

TRIM REFERENCE: F2008/00407 - D02082845

AUTHOR: AE

SUMMARY

Report on the Minutes of Senior Citizens' Council meeting held 22 October 2009.

RECOMMENDATION

That Council receive the report on Minutes - Wyong Shire Senior Citizens' Council Meeting - 22 October 2009 and adopt the recommendations contained therein.

A meeting of the Wyong Shire Senior Citizens Council was held on 22 October 2009. The minutes are included as Attachment 1.

ATTACHMENTS

1 Minutes - Wyong Shire Senior Citizens' Council - 22 October 2009 D02077449

MINUTES OF THE WYONG SHIRE SENIOR CITIZENS COUNCIL MEETING

Location:	<i>Wyong Shire Council Civic Centre – Tony Sheridan Function Room</i>	Date:	<i>22 October 2009</i>
Chair:	<i>June Goss</i>	Time:	<i>1:00pm-4:00pm</i>
Present:	<i>June Goss, Juliet Axford, Maryanne Housham, Dawn Thompson, Mary Dallow, Danielle Hargreaves, Luigi Bruni., Bruce Pyke, Dawn Thompson</i>		
Apologies:	<i>Annette Evans, Bruce Kirkness</i>		
Acknowledgement	<i>Acknowledge the Traditional Custodians of the land and pay our respects to the Elders both past and present</i>		
Declaration of Pecuniary Interest	<i>No significant conflict of interest issues noted by any members</i>		
Minute Secretary:	<i>Mary Dallow</i>	Folder:	<i>F2008/00407</i>

Item Description		Responsibility
1.	ADOPTION OF PREVIOUS MINUTES	
1.1	That the minutes of the meeting of 24 September 2009 be adopted as a true record. Moved: Bruce Pyke Seconded: Dawn Thompson	
2.	BUSINESS ARISING FROM PREVIOUS MINUTES	
2.1	Park Bench Design No information available at this point.	AE
2.2	Transport/Bus Reform Transport – report from Bruce Pyke. Report has been sent to Ministry. Transport group information sent to Bruce Pyke and Allen Booth. Senior Citizens Council (SCC) has decided they should follow up after the report findings have been published. They believe a joint submission on the report should be compiled by all participating groups. SCC recommends that a press release on the transport report finding to be published in <i>Shire Wide</i> .	BP
2.3	Positive Aging Survey Results Look at major results and consider a more in-depth survey to clarify the results. This might be undertaken in conjunction with the Social Planning Team in Council and/or with support from the local university.	ALL
2.4	Seniors Week Plans Safety Forum to include Police, Fire Brigade, Rangers, Red Cross. Trivia Day to be held at Wyong RSL. All SCC members can contribute in the planning by collecting interesting information about Wyong; Seniors; Ageing; Active Mind so that the Quiz Master can use this to develop the trivia questions.	ALL
3.	WSC SENIOR CITIZENS COUNCIL REVIEW	

	Item Description	Responsibility
3.1	<p>Group to review terms of reference before next meeting and consider how plans for the next 12 months link to them.</p> <p><i>Ideas:</i></p> <p>SCC could advocate for cultural events/outlets.</p> <p>SCC to consider a survey asking what type of cultural events seniors in the Shire require. Perhaps a joint project with the Youth Council.</p> <p><i>Note:</i> Congratulate Council on The Entrance Art component.</p> <p>SCC to sponsor a fun seniors/youth forum to break down the barriers and stereotypes.</p> <p>There was a suggestion that seniors could visit high schools to share experiences with young people. Need to investigate further whether this already operates in local high schools and if not how it would be undertaken, and who would implement it.</p> <p>Workshop the idea of meeting with the young people at Gravity.</p>	ALL
4.	INFORMATION SHARING	
	<p>Suggestions for next meeting.</p> <p>New member drive – currently eight members, four places unfilled.</p> <p>Christmas meeting at Wyong Golf Club, 9 December 2009 at 12.00pm Book for 14 – to be confirmed.</p>	ALL
5.	CORRESPONDENCE	
	<p>Allen Booth resignation.</p> <p>The meeting agreed that there is not enough merit in having a member attend the transport working group in place of Allen Booth.</p> <p>A letter is to be sent to Allan thanking him for his contribution to SCC. To be worded in an informal style.</p>	AE
	<p>NEXT MEETING: <u>26 November 2009</u></p> <p>1.00pm – 4.00pm</p> <p>IT Room, Council Chambers</p>	

9.3 Mardi to Mangrove Link Project Status

TRIM REFERENCE: F2007/01120 - D02083049

AUTHOR: CC

SUMMARY

Report on status of Mardi to Mangrove Link Project.

RECOMMENDATION

That Council receive the report on Mardi to Mangrove Link Project Status.

PROJECT SCOPE

- Wyong River off-take structure and pumping station
- Wyong River to Mardi-Dam 2.1 kilometre pipeline
- Mardi-Mangrove transfer pumping station
- Mardi Dam to Mangrove Creek Dam 19 kilometre pipeline

CURRENT STATUS

Expenditure to date \$22.6m

Project Estimate \$125m - \$170m

Design Status

	Investigation & Preliminary Design	Concept Design	Detailed Design
Wyong River Off-take Structure & Pumping Station (Work Package (WP) 1, WP2)	100%	100%	100%
Wyong-Mardi Rising Main (WP3)	100%	100%	100%
Wyong-Mardi Inlet (WP4)	100%	100%	100%
Mardi-Mangrove Transfer Pumping Station (WP6)	100%	100%	100%
Mardi-Mangrove Transfer Main (WP7)	100%	100%	100%
TOTAL	100%	100%^(*)	100%^(*)

^(*) For the purpose of issue of Request for Tenders (RFT), the concept and detailed design are 100% complete. GHD are still undertaking design and administrative work on a number of Work Packages.

Key Dates

	Scheduled Completion	Actual Completion	Complete
Review of Environmental Factors (REF) submitted	30 June 2009	30 June 2009	☑
Call for Expressions of Interest (EOI)	9 July 2009	9 July 2009	☑
EOI closes	30 July 2009	30 July 2009	☑
Determination Approval	14 October 2009	23 September 2009	☑
Issue Request for Tenders (RFT)	16 October 2009	16 October 2009	☑

9.3 Mardi to Mangrove Link Project Status (contd)

Tenders close	12 November 2009	12 November 2009	<input checked="" type="checkbox"/>
Council consider Award of Construction Contract	9 December 2009	9 December 2009	<input checked="" type="checkbox"/>
Expiry of PAN 90 day notification period	31 December 2009		<input type="checkbox"/>
Project Completion	June 2011		<input type="checkbox"/>

Land Matters

- 55 privately owned properties require easements.
- 5 out of 6 agreements signed for additional land required for construction.
- Application notices for compulsory acquisition of easements issued to 22 landholders.

	Properties	% Complete	Previous Report
Surveys completed	55	100%	100%
Valuations completed	55	100%	100%
Agreements signed	39	71%	65%

Council is in the process of preparing notices of entry in accordance with the statutory entry provision in the Water Management Act in order to ensure access is available to land where easement agreements may not be resolved by early 2010.

Stakeholder Liaison

Community

- Display at Erina Fair Shopping Centre (long-term display) and Wyong Civic Centre.
- Information in two Council columns regarding the information displays at Erina Fair and Wyong Civic Centre.
- Project information provided to Water Services Association of Australia via Gosford City Council. This information was published in the Association's online bulletin.
- Project information displayed at Tuggerah Lakes Mardi-Gras.

Landholder

- Project information provided in Rural Grapevine and Village Grapevine.
- One correspondence item has been received in November.

Government

- Liaising with Advisers to NSW Minister for Water regarding the easement acquisition process.
- Liaising with New South Wales Department of Environment, Climate Change and Water (DECCW) on outcome of water licences upgrade applications.

Incidents

There have been no OH&S or environmental incidents during the last reporting period.

Major Achievements / Issues

- The Review of Environmental Factors Report for the Operation of Boomerang Creek Inlet Outlet Structure has been approved by Gosford City Council's Senior Environmental Officer on 20 November.
 - The NSW Mines Subsidence Board approved the detailed drawings of the pipeline on 25 November.
-

ATTACHMENTS

Nil.

9.4 Investments for October 2009

TRIM REFERENCE: F2004/06604 - D02084489

AUTHOR: SJG

SUMMARY

The following report details of Council's investments as at 31 October 2009.

RECOMMENDATION

That Council receive the report on Investments for October 2009.

BACKGROUND

Conservative management of the Wyong Shire Council's (WSC) investment portfolio throughout the last financial year provided a defence against the world financial crisis. Council's investments in managed funds were impacted by the loss of market confidence and liquidity, however recovery based on the underlying quality of investment assets has continued in line with council's hold-to-maturity strategy.

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation (2005), Council's Investment Policy and the Minister for Local Government's Investment Order issued in August 2008.

CURRENT STATUS

In October 2009, the total net return was \$0.74m consisting of interest earnings \$0.39m and capital gains \$0.35m. Council's total investments as at October 2009 are summarised in Table 1 and detailed in Attachment 1.

Table 1 Investment Portfolio by Risk Category

	October 2009	Year-to-Date Total Returns	Year-to-Date Returns Interest Only	Year-to-Date Returns Interest Only
	\$ '000	%	%	\$ '000
Cash at Call	21,146	3.82	3.82	309
Term Deposits	58,673	4.41	4.41	723
Cash Plus Funds	8,299	15.03	1.04	32
Cash Management Funds	24,801	17.89	8.21	662
Enhanced Income Funds	13,608	17.03	2.80	123
Total Investments	126,527	9.10	4.61	1,849

Year-to-date returns of 9.10% (total) are all favourable to the UBSA Bank Bill Index of 3.18%.

Investment transactions and earnings during October 2009 are shown in Table 2 Portfolio Performance.

9.4 Investments for October 2009 (contd)

Continuing the first quarter trend, by the end of October Council's investments had regained \$1.75m in value. This represents a 50% recovery on the paper losses reported and recognised in 2008/09 (\$3.5m). The hold-to-maturity strategy continues to be the preferred option in a recovering market environment.

Capital gains of \$353,000 in October were across the board being Macquarie Income \$115,000, Aberdeen \$58,000, and Blackrock Care & Maintenance \$180,000.

Table 2 Portfolio Performance

	July - September 2009 \$m	October 2009 \$m	Year to Date 2009/10 \$m
<i>Movement in Assets</i>			
Opening Balance	99.22	130.02	99.22
Capital Gain/Loss – (see below)	1.39	0.35	1.74
Net Cash/Investments(Withdrawals)	29.41	-3.84	25.57
Closing Balance	130.02	126.53	126.53
<i>Trading Position</i>			
Capital Gain/(Loss) Realised	-	-	-
Capital Gain/(Loss) Unrealised	1.39	0.35	1.74
Interest Earnings	1.47	0.39	1.86
Total Return for Period	2.86	0.74	3.60

Interest Returns

Interest returns year to date continue above budget by \$0.31m with October returns in line with budget.

Council's holdings in managed funds and the manner in which interest on these funds is distributed makes it extremely difficult to predict interest earnings in terms of timing and month. However, Council's term deposits continue to yield above the UBSA (Union of Switzerland Australia) Bank Bill Index for October with investments ranging from 4.00% to 4.95% against Benchmark of 3.05%.

Table 3 Interest Only Performance

Investment Source	YTD Budget \$ '000	YTD October \$ '000	Var. \$ '000
General Fund	817	984	167
Water (all)	151	181	30
Sewerage (all)	566	681	115
Total	1,534	1,846	312

Black Rock Care and Maintenance Fund

The total return for the month of October was \$0.18m. Regular close monitoring of the status of this investment continues and the “hold to maturity” strategy is seeing positive gains as markets have improved.

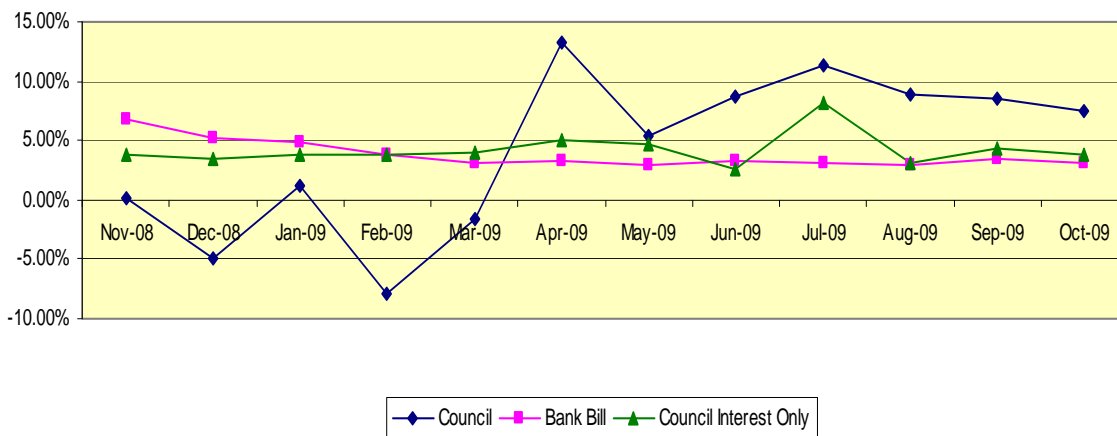
In early October, the fund provided a distribution entirely made up of capital of maturing assets of \$572,000, representing 100% of face value being returned to Council without capital loss.

Benchmark - Monthly Returns (Annualised)

Council’s overall investment return is compared to the UBSA (Union Bank of Switzerland Australia) Bank Bill Index. This index is in common use among councils and is a measure of the top rated reliable cash rates. Using the index for Council establishes a minimum performance comparison.

A graph detailing the monthly return on a 12 monthly basis is as follows:

Table 4 Monthly Annualised Returns (Interest and Capital Movements) Portfolio Performance Comparison to UBSA Bank Bill Index



Council: Council Total Return (Interest and Capital)
Bank Bill: UBSA Bank Bill Index
Council Interest Only: Council Interest Earnings

INVESTMENT STATEMENT

In accordance with the Local Government (General) Regulation 2005, Part 9, Division 5, Clause 212, it is certified that the investments held as at 31 October 2009 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

CONCLUSION

The year end accounts for 2008/09 recognised all unrealised losses in full however as these assets improve in value they will re-appear in our accounts and be recognised as income in forthcoming periods. This does not translate to surplus income in real terms.

ATTACHMENTS

- 1 OM 09-12-09 Summary of Investments by Type as at 31 October 2009 D02084487

Wyong Shire Council
Summary of Investments - By Type
As at 31 October 2009

FUND MANAGER	MATURITY	PORTFOLIO BALANCE \$	INCOME FOR MONTH \$	YIELD % p.a.
CASH AT CALL:				
ANZ High Yield Cash Account (AA)	Daily	17,950,540	98,293	3.30
BT Institutional Managed Cash (AAA)	Daily	3,194,866	8,653	3.24
Total Cash At Call		21,145,406	106,946	
TERM DEPOSITS & BONDS				
Westpac Term Deposit	27/10/2009	-	8,876	4.00
ANZ Term Deposit	20/11/2009	5,000,000	17,836	4.20
Bank of Qld Term Deposit	13/11/2009	5,000,000	18,473	4.35
T-Corp (WorkCover NSW)	02/12/2009	9,460,000	24,907	3.10
CitiBank Term Deposit	29/12/2009	3,000,000	11,466	4.50
Allied Irish Term Deposit	29/12/2009	3,000,000	11,797	4.63
BankWest Term Deposit	04/01/2010	4,000,000	14,608	4.30
NAB Term Deposit	12/01/2010	10,000,000	36,521	4.30
ANZ Term Deposit	12/01/2010	5,000,000	18,048	4.25
SunCorp Term Deposit	18/01/2010	5,000,000	18,473	4.35
SunCorp Term Deposit	28/01/2010	5,000,000	21,020	4.95
Westpac Deposit Bond	24/09/2012	4,213,332	24,834	5.13
Total Term Deposit & Bonds:		58,673,332	226,859	
CASH PLUS:				
Aberdeen Cash Plus Fund (A)	To be liquidated 2009 - Schedule in place	6,953,565	59,258	10.48
ING Enhanced (A)	To be liquidated 2009 - Fund Termination in Process.	35,784	181	6.15
LGFS 12-Month Cash Facility	Open Ended	1,309,869	5,066	4.67
Total Cash Plus		8,299,218	64,505	
CASH MANAGEMENT FUNDS:				
BlackRock Care & Maintenance Fund	June 2015 (Estimate)	9,747,997	179,519	24.36
LGFS Fixed Out-Performance Cash Fund (AA-f)	Open Ended	15,053,332	44,643	3.55
Total Cash Management Funds		24,801,329	224,162	
ENHANCED INCOME:				
Macquarie Income Cash Plus (A)	Open Ended	13,607,731	115,143	10.52
Total Enhanced Income		13,607,731	115,143	
TOTAL		126,527,016	737,615	

9.5 Review of Council's Project Management Processes

TRIM REFERENCE: CPA/137907 - D02082980

AUTHOR: KM

SUMMARY

This report provides information in response to Council's Resolution from the Ordinary Meeting of 26 November 2008 in relation to the Review of Council's Project Management Processes.

RECOMMENDATION

That the Report be noted.

BACKGROUND

At the Ordinary meeting of Council held on 26 November 2008 it was resolved unanimously on the motion of Councillor Symington and seconded by Councillor Eaton:

"1 That Council defer the engagement of a consultant until after such time as Blue Visions Management Pty Ltd has completed the implementation of the current contract and staff training has been conducted for a minimum of six months.

2 That Council request a staff report on the Blue Visions Management Pty Ltd project including a copy of their brief."

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

AGAINST: NIL.

This report provides further information in response to Resolution 1 above, in relation to the completion of staff training for a corporate Project Management System and information to show that the System is being successfully implemented across the organisation.

Engagement of Blue Visions

In December 2007, in recognition of the need to improve project management outcomes across the organisation, Shire Services initiated a review of Council's project management practices. Consultants Blue Visions Management Pty Ltd (Blue Visions) were engaged in April 2008 to review and update Council's existing Project Management System, and provide training to selected staff.

Previous Resolutions

At its Ordinary Meeting of 30 July 2008 Council resolved that a review of Council's project management processes be undertaken to improve and strengthen its project management capability.

At the later Ordinary Meeting of 26 November 2008 it was acknowledged that the Blue Visions engagement was already well underway, and deferred engagement of a further consultant until the outcomes from the Blue Visions work could be reviewed.

This report provides an assessment of the Blue Visions engagement approximately six months after completion of staff training.

PROJECT MANAGEMENT SYSTEM

In late 2007 Council recognised that there was an organisational need to strengthen its internal project management skills and capabilities. In order to improve the standard of delivery for all projects open tenders were invited and 16 companies provided quotations to undertake the following work:

- 1 Review Council's existing project management capability, system and processes;
- 2 Identify and develop improvements to the existing system and processes;
- 3 Develop documentation and templates to standardise project management documentation throughout Council and
- 4 Develop and implement a staged project management training program for staff.

All parts of this engagement were carried out by the consultant, Blue Visions, and this part of the project is now complete.

Training

Training was conducted from February to May 2009 and was held at three levels to accommodate the varying levels in existing knowledge, project complexity, project size and staff involvement in projects. The following numbers of staff have been trained at the three levels:

- Level 1 - Introduction to Project Management – 148
- Level 2 - Fundamentals of Project Management - 68
- Level 3 - Concepts in Program Management - 22

Feedback from the training was overwhelmingly positive, with the majority of staff finding it extremely beneficial as it increased their skills and knowledge of the project management process.

In order to ensure all staff involved with projects are appropriately trained in using Council's new system, the Training Unit will also arrange for further training of new staff as necessary.

Adoption of Corporate Project Management System

To ensure that the importance of the training and new system was reinforced, the Project Management System was officially launched as a corporate system on Council's Intranet in June 2009. The Project Management System provides a consistent organisation-wide approach for managing projects. The system has been loaded onto Council's SharePoint site to allow for integration into the existing Procurement System, as well as to allow for updates to be made electronically.

Shire Services has appointed a staff member with a strong project management background to provide high level support for the system and staff, to review feedback and to work towards embedding the new system into the culture of the organisation.

Outcomes

Ahead of a formal audit it appears that the major outcome of the update of the corporate Project Management System has already been an improvement in the management of projects and the delivery of better project outcomes.

9.5 Review of Council's Project Management Processes (contd)

Introduction of, and training in, the updated Project Management System has established a benchmark for best practice in managing projects, which is applicable to construction, IT and other non-build projects.

With of the number and variety of projects and Project Managers within Council, a key result is that use of the System is producing a consistent approach to project management. The organisation is benefiting from a consistent culture, language and terminology that has proliferated across departments, and is improving the quality and accuracy of information sharing and communication. Client departments have become familiar with the terms, as well as the concepts of scope, time, cost, safety, environmental and quality management.

Users of the updated System are actively guided to identify and involve all stakeholders early in the life of the project, and to confirm and document roles and responsibilities. This contributes to clear communication, ownership and a reduction in changes to the project scope.

Improved documentation from Project Management Plans to Scope Change Requests is a positive outcome from the updated System. Formality in meeting agendas and minutes are generating a discipline around the consideration and recording of issues that impact on the completion of projects.

Because the updated System requires the preparation of a project risk register all project managers are led to consider risks and consult stakeholders in deciding upon mitigation measures and the associated time and budget contingencies.

Ongoing Actions

The System is live and expected to grow with the expertise of the organisation. As feedback is gained about use of the system it is reviewed and changes implemented to tailor the system to the needs of the users and organisation.

One such improvement has been the implementation of the Project Assistance Team (PAT). The PAT is a group of managers from across the organisation that can provide support and direction to a Project Manager at the very beginning of a project. The team meets fortnightly to discuss new projects with Project Managers to assess the overall viability of the project, as well as potential constraints or opportunities. A major benefit of the PAT is that the collective knowledge the team possesses can be applied at the early stages of a project to allow greater potential to identify risks, as well as the potential for making each project more successful.

The PAT will undertake post-project reviews with Project Managers to review opportunities that were gained and learn from less successful outcomes.

It is also noted that Blue Visions has maintained an interest in the project, and has only recently undertaken a de-briefing with Council staff to review progress that has been made.

A further audit of the project management system is planned for 2010/11 after the new system has been in operation for at least 12 months.

CONCLUSION

The implementation of Council's new Project Management System has been highly successful and well received by staff responsible for managing projects across all Departments. The system is particularly user-friendly and has been designed to be useful for small projects as well as very large ones.

Innovations such as the PAT have also been put into the new system, and ongoing training as required for new staff will be implemented.

The benefits for Council in the longer run will be improved project management skills for staff and better managed projects.

ATTACHMENTS

Nil.

9.6 Access for Refilling Water Containers from Public Drinking Facilities in the Wyong Shire

TRIM REFERENCE: F2004/06963 - D02083469

AUTHOR: BS

SUMMARY

Report on access for refilling water containers from public drinking facilities in the Wyong Shire.

RECOMMENDATION

That Council receive and note the report on Access for Refilling Water Containers from Public Drinking Facilities in the Wyong Shire.

BACKGROUND

Council at its meeting held on 14 October 2009 resolved on the motion of Councillors Wynn and McBride the following:

- “1 That Council stop purchasing bottled water and instead investigate alternatives.
- 2 That Council investigate and report on the access for refilling water containers from public drinking fountains to encourage recycling, decrease landfill and reduce the Shire's carbon footprint.”

FOR: COUNCILLORS BEST, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT AND WYNN

AGAINST: COUNCILLORS EATON, GRAHAM, MCNAMARA AND WEBSTER

With regard to Recommendation 1 above, Council staff are no longer purchasing bottled water for Council meetings or functions. Once existing stock is used up, all future meetings will be supplied with glasses and chilled water in glass jugs.

With regard to Recommendation 2 above, Council staff have identified that there are 13 “water fountains” located across the Shire. The water fountains are typically mounted on a concrete plinth and their design makes it difficult to refill water bottles.

To adapt the current water fountains to be able to fill drinking bottles has been considered as an option but would require considerable modification as this was not part of their original concept. To replace the current water fountains with new purpose designed water fountains, as found in other municipalities, would cost approximately \$1500 each. Installation of new water fountains would cost \$1500 each plus the cost of piping drinking water to the fountain.

Sources of drinking water other than water fountains include taps at parks, beaches, sports facilities and within public toilet facilities. Of all Councils parks, ovals and reserves, drinking water is currently available from taps at an estimated 227 sites. A large percentage of these taps have been fitted with tamper proof handles to stop the waste of water. To retro fit these taps with fittings that would allow both water bottle filling and the ability to use the taps for the original installed purpose, a cost of \$300 per installation would be incurred.

COSTS

\$1500 per installation to replace current water fountains.

\$1500 plus the cost of running the water pipe for new installations.

\$300 per installation to adapt current taps.

CONCLUSION

Council staff will ensure any new or replacement drinking fountains will be designed to accommodate for the easy refilling of drinking bottles.

Drinking water is generally available for recreational users but is sometimes difficult to access.

Council staff will undertake a program to retro fit our current taps at all high usage reserves so that there will be access to fill water bottles.

ATTACHMENTS

Nil

9.7 Outstanding Questions Without Notice and Notices of Motion

TRIM REFERENCE: F2009/00008 - D02085112

AUTHOR: MR

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

RECOMMENDATION

That Council receive the report on Outstanding Questions Without Notice and Notices of Motion.

Question Asked / Councillor	Department	Meeting Asked	Status
Q58/09 – Pool at Mingara Recreation Club <i>“There is a report in today’s newspaper under the Central Coast News section concerning the operation of the pool at Mingara Recreation Club and Council is a joint owner of the pool. Who is responsible for carrying out day to day management of the pool and does Council have any control over such issues as to when the learn-to-swim classes or squads are scheduled?”</i>	Shire Services	11 November 2009 Cr Graham	A response will be submitted to Council’s meeting of 27 January 2010.
Q59/09 – Wadalba Wildlife Corridor <i>“Given Council’s Wadalba Wildlife Corridor Management (2007), what is the priority for providing safe crossings (ie poles or culverts) of wildlife connecting the Wadalba Wildlife Corridor and Porter’s Creek Wetland across the Pacific Highway at Van Stappen’s Corner?”</i>	Shire Planning	11 November 2009 Cr Wynn	A response will be submitted to Council’s meeting of 27 January 2010.

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

Notice of Motion	Department	Meeting Resolved	Status
<p>326 - National Natural Disaster Funding</p> <p><i>1 That Council, via the Federal Local Members, request National Natural Disaster Funding include coastal erosion events and Council expenditure on preventative and remedial action.</i></p> <p><i>2 That the Local Government Association via its annual conference be invited to support this initiative</i></p> <p><i>3 That a further report be brought back to Council on information on predication on climate change impacts as a result of studies being undertaken by consultants in conjunction with the Coastal Hazard Study.</i></p>	Shire Planning	8 August 2007 Cr Eaton / Cr Best	<p>Letter sent to Local Government Association (LGA) applying for funding. Reply received advising Council was unsuccessful. Letter sent to the LGA requesting coastal erosion and risk management issues to be included in future funding. No response received.</p> <p>A report will be submitted to Council once the project plan for the Coastline Management Plan has been finalised.</p>
<p>298 – The Long Jetty Commercial Options Initiative</p> <p><i>1 That Council receive a briefing as part of the Long Jetty master planning that will occur following the potential adoption The Entrance Long Jetty Strategy on the permissibility and benefits / disbenefits of considering sub leasing (subject to Departmental approval) an area of the Long Jetty to cater for a commercial operation such as a cafe with possible education aspects.</i></p> <p><i>2 That any economical benefit derived from this activity be allocated to the maintenance and upkeep of the Long Jetty.</i></p>	Shire Planning	25 June 2008 Cr Best / Cr Eaton	Currently preparing the project Management documentation to initiate the commencement of the project for masterplanning the Long Jetty Village Centre. This project will consider the matters raised in Council's resolution. Briefing of Council likely in third quarter of this budget year.

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

Notice of Motion	Department	Meeting Resolved	Status
<p>9.4 – Council’s Animal Care Facility Review</p> <p>1 <i>That Council acknowledge the strategic and operational review of the Animal Care Facility undertaken by the Regulation and Compliance Unit in late 2008.</i></p> <p>2 <i>That Council reiterate the earlier congratulations extended to the Manager of Regulation and Compliance and his team for “the complex review” undertaken which led to the Wyong Animal Care Facility “being nationally identified as a best case example of restructure and operation” as advised by Councillor Best in his Question Without Notice to the Ordinary Meeting held on 12 November 2008.</i></p> <p>3 <i>That staff report to Council on further options for the future management of the facility following the completion of the RSPCA’s strategic review of its operations which Council is advised will take approximately 12 months.</i></p> <p>4 <i>That in response to the success of the joint efforts of staff and animal rescue groups resulting in increased re-homing rates, Council acknowledge the need to provide additional kennels and cattery space and therefore give consideration to the provision of capital funds for the extension of the facility as part of its consideration of the 2009-10 Management Plan. However, should additional funds be voted, that the expenditure of such funds not occur until the outcome of the RSPCA strategic review.</i></p> <p>5 <i>That Council embark on a public awareness campaign focusing on responsible pet ownership.</i></p>	<p>Shire Planning</p>	<p>25 February 2009 Cr Best / Cr Matthews</p>	<p>The RSPCA Strategic Review is complete. Future options will be the subject of a Councillor Briefing in early 2010 with a report to follow.</p>

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

Notice of Motion	Department	Meeting Resolved	Status
<p>9.2 – Notice of Motion – Community Gardens</p> <p><i>That Council develop a Strategic Policy for Community Gardens which involves the following:</i></p> <ol style="list-style-type: none"> 1 <i>That a policy to support the development of Community Gardens be formulated for Wyong Shire. This policy shall be guided by the following requirements:</i> <ol style="list-style-type: none"> a <i>Establish community gardens in new and existing residential areas in partnership with local residents.</i> b <i>Ensure that sufficient land is made available in newly planned residential areas to provide for community gardens, within planned open space areas.</i> c <i>The policy should provide opportunities to retrofit community gardens in established residential areas where it can be established that there is sufficient community will and interest to justify one.</i> d <i>That clearly identifies Council's roles and responsibilities.</i> 2 <i>That Council identify funding opportunities eg grants and other forms of in kind assistance to help community groups.</i> 3 <i>That the process for establishing community gardens be simplified by providing information to assist community groups in being able to meet Council requirements. This would involve the identification of suitable land upfront by Council and providing documentation which carefully explains what is needed in terms of development consent, consultation processes with nearby residents/competing user groups for existing open space, land leasing requirements and insurance liability requirements.</i> 4 <i>That this policy be prepared by the Shire Planning Department and submitted to Council for consideration.</i> 5 <i>That the policy be developed in partnership with the Community Development Unit.</i> 	<p>Shire Planning</p>	<p>22 July 2009 Cr Wynn / Cr Graham</p>	<p>A report will be prepared for Council's consideration once community consultation has been completed.</p> <p>The draft Policy has been incorporated within the Legal and Policy Unit Work Program to be developed in the third quarter of 2009-10.</p>

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

Notice of Motion	Department	Meeting Resolved	Status
<p>10.2 – Notice of Motion –Review of Fees for Home Buyers</p> <p>1 <i>That Council work with the State and Federal Governments to ensure affordable housing for first home buyers.</i></p> <p>2 <i>That Council make representations to the Minister for Planning seeking her agreement to exempt development within the Shire from the requirement to contribute to Special Infrastructure Contributions which are levied on new development to fund State infrastructure and services.</i></p> <p>3 <i>That Council convene workshop(s) with senior staff and Councillors, as soon as practicable, to consider how Council could assist increasing affordability for first home buyers.</i></p>	Shire Planning	12 August 2009 Cr McBride / Cr Matthews	Workshop to be rescheduled for early 2010 due to the fact that available briefing times have been taken up with the 4 year delivery plan workshops.
<p>10.3 – Notice of Motion – Aged Housing Strategic Planning</p> <p>1 <i>That Council recognise the domination of aged housing in its "Greenfield" urban release areas as reported in Question Without Notice No 038.</i></p> <p>2 <i>That Council acknowledge that this proliferation of aged housing dictates changes to Council's strategic plans for these areas including, for example, sporting facility provision, employment and commercial lands, community service provisions etc.</i></p> <p>3 <i>That Council convene workshop(s) with senior staff and Councillors as soon as practicable to consider changes to Council plans relevant to this significant demographic shift.</i></p>	Shire Planning	12 August 2009 Cr Eaton / Cr Wynn	Workshop to be rescheduled for early 2010 due to the fact that available briefing times have been taken up with the 4 year delivery plan workshops.
<p>9.3 - Notice of Motion - Review of All Boat Ramps with Lake Macquarie Frontage.</p> <p><i>That Council conduct an audit/review of all boat ramps and adjacent infrastructure in those areas of Wyong Shire that have frontage to Lake Macquarie.</i></p>	Shire Planning	26 August 2009 Cr Symington / Cr Graham	A detailed audit of Foreshore Structures is in progress for all areas of Wyong Shire and will be completed this calendar year. The Asset Management Strategy will include assessment of foreshore structures. Future Planning will use this as part of the Foreshore Open Space Plan scheduled for the 2010-11 Financial Year.

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

Notice of Motion	Department	Meeting Resolved	Status
<p>9.4 - Notice of Motion - Dredging of Tumbi Creek</p> <p>1 That Council staff briefly report on the failure of the dredging operation to keep Tumbi Creek open for a reasonable length of time.</p> <p>2 That Council engage a suitable independent expert to review the report produced in item 1 and also the Council process involved in the dredging operation and make recommendations about future dredging operations and their viability.</p>	Shire Planning	26 August 2009 Cr Graham / Cr Best	An independent expert has been engaged and a draft report is being reviewed. Final report will be submitted to Council's meeting on 27 January 2010.
<p>8.1 - Notice of Motion – Energy Reduction Targets</p> <p>That the Shire Planning Department, in consultation with Shire Services Department, <u>provide</u> a report to Council that outlines the implications (social, economic and environmental) of applying a minimum 30% reduction by 2030 or earlier in greenhouse emissions based on 1999-2000 performance levels to:</p> <ul style="list-style-type: none"> • the top 10 sites for energy consumption as identified in Council's Energy Saving Action Plan (as these sites consume two-thirds of all electricity consumed by Council); • vehicle and small plant fleet; and • Buttonderry landfill site. <p>Further, that the report include the implications (social, economic and environmental) of achieving carbon neutrality for these sites and activities by 2050 based on 1999-2000 performance levels.</p> <p>The report is to take into account but not be limited to, the effects of population growth, drought mitigation actions and staff retention and attraction issues.</p>	Shire Planning	9 September 2009 Cr Wynn / Cr Best	A Councillor briefing followed by a report will be scheduled for the first quarter of 2010.
<p>8.2 - Possibility for the Establishment of an Environmental Committee</p> <p>That the Shire Planning Department provide a report that outlines the possibilities for establishment of an Environment Committee.</p>	Shire Planning	9 September 2009 Cr Wynn / Cr Best	Review of form, membership and charter of similar committees in other Councils completed. A report will be submitted to Council's meeting on 27 January 2010.

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

Notice of Motion	Department	Meeting Resolved	Status
<p>10.1 - Notice of Motion - Geotextile Bag Sand Dune Stabilisation Trial</p> <p><i>That further to Council's initial resolution of 27 February 2008 on Item 194 – Geotextile Bag Investigations and Council's subsequent unanimous resolution on Item 343 – Geotextile Bag Investigations on 23 July 2008, staff now report as to what state this matter is now at as at this date (14/09/09).</i></p>	Shire Planning	14 October 2009 Cr Best / Cr Webster	Completed report submitted to Council's Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee on 3 December 2009. This report will subsequently proceed to Council's meeting on 27 January 2010.
<p>U17/09 – Motion of Urgency - Proposed Sale Of Lot 83 DP 27286 Charmhaven Avenue And Lot 94 Section 1 DP 11824 Moala Parade, Charmhaven</p> <p><i>That Council <u>defer</u> the sale of Lot 83 DP27286 Charmhaven Avenue, Charmhaven and Lot 94 Section 1 DP 11824 Moala Parade, Charmhaven pending;</i></p> <p><i>a the submission of a report by local residents regarding the use of these two blocks;</i></p> <p><i>b an opportunity being given to the local residents to address Councillors at a future resident's forum;</i></p> <p><i>c a report from staff in regard to the submission by local residents. This report is also to include a list (developed in consultation with the broader community of Charmhaven and Lake Haven) of potential projects that could be funded from the proceeds of the sale if it proceeds.</i></p> <p><i>d a report about alternative uses of the land such as the path combined with a park or community garden retaining as much of the old growth as possible.</i></p>	Corporate Services	14 October 2009 Cr Vincent / Cr Symington	Resident forum conducted 11 November 2009 and a report will be submitted to Council early 2010.
<p>8.1 – Notice of Motion – Shire Civic Garden</p> <p><i>1 That Council <u>consider</u> the creation of a civic garden within the Shire that consists predominantly of native plantings</i></p> <p><i>2 That Council staff <u>provide</u> a report by March 2010 on the implementation cost, maintenance, including planting and/or maintenance, by local garden clubs and/or land care groups/schools/communities.</i></p>	Shire Planning	11 November 2009 Cr Vincent / Cr Matthews	The project has been incorporated into the Future Planning Works Program, with a report to be submitted to Council in March 2010.

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

Notice of Motion	Department	Meeting Resolved	Status
<p>8.4 – Notice of Motion – Proposed Additional Development Policy</p> <p>1 <i>That taking into account the unsightly appearance of a number of unfinished and empty buildings throughout the Shire, that staff develop a policy that can be integrated into the relevant chapters of Development Control Plan 2005.</i></p> <p>2 <i>That the draft policy be written to apply to major residential, commercial and industrial development.</i></p> <p>3 <i>That the provisions of the policy include:</i></p> <p style="padding-left: 20px;">a <i>objectives relating to ensuring visual amenity is maintained should buildings remain unfinished or empty;</i></p> <p style="padding-left: 20px;">b <i>requirements for ensuring visual amenity by way of hoardings, landscape buffers, painting and / or other means of screening; and</i></p> <p style="padding-left: 20px;">c <i>a focus on buildings located within town centres and on major roads within the Shire.</i></p> <p>4 <i>That the draft policy be reported back to Council for consideration.</i></p>	<p>Shire Planning</p>	<p>11 November 2009</p> <p>Cr Best / Cr Webster</p>	<p>Item has been included on the policy works program and will be commenced late 2010.</p>

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

Questions Without Notice and Notices of Motion Removed from the Above Lists since the Previous Meeting

Question without Notice / Notice of Motion	Date Asked / Resolved	Outcome
<p>11.3 – Notice of Motion – Toukley Gathering of the Clans</p> <p>1 <i>That Council note the offer by “Brackets and Jam” to host and facilitate the 2009 Toukley Gathering of the Clans and that Council support their initiative.</i></p> <p>2 <i>That Council’s Grants Committee consider an allocation of funds for the 2009 Toukley Gathering of the Clans at an extraordinary meeting to be held on 17 June 2009.</i></p> <p>3 <i>That Council consider a report on the cost benefits of appointing a Shire wide events co-ordinator.</i></p>	<p>10 June 2009 Cr Best / Cr Vincent</p>	<p>Points 1 and 2 already completed. A response to Point 3 is included in this business paper under Item 7.3. Events Co-Ordination – Maximisation of Council’s Ability to Attend, Support, Manage and Attract Events.</p>
<p>10.6 - Notice of Motion - Discontinuation of Supply of Bottled Water to Council</p> <p>1 <i>That Council <u>stop purchasing</u> bottled water and instead investigate alternatives.</i></p> <p>2 <i>That Council <u>investigate and report</u> on the access for refilling water containers from public drinking fountains to encourage recycling, decrease landfill and reduce the Shire’s carbon footprint.</i></p>	<p>14 October 2009 Cr Wynn / Cr McBride</p>	<p>A response is included in this business paper.</p>
<p>10.7 - Notice of Motion - Public Relations Costs Review</p> <p>1 <i>That Council <u>consider</u> a report on current costs of public relations/communication and dedicated staff resources, efficiency and potential savings.</i></p> <p>2 <i>That the report also <u>address</u> the linkages between the communications section and the Shire Strategic Vision and Management Plan.</i></p>	<p>14 October 2009 Cr Eaton / Cr Best</p>	<p>This issue and associated report is being considered in the SSV – 4 year Delivery Program 2010-11 Annual Plan Process.</p>

ATTACHMENTS

Nil.

9 December 2009

To the Ordinary Meeting

Councillor

10.1 Notice of Motion - Protocol for Proposals Submitted for Naming of Public Reserves

TRIM REFERENCE: F2004/06023 - D02084494

AUTHOR: BG

Councillors Graham and Eaton have given notice that at the Ordinary Meeting to be held on 9 December 2009 they will move the following Motion:

“That in order to avoid any potential embarrassment to people, requests from the community to recognise a person by naming of a geographical feature etc, (e.g. a park) be sent to the Mayor and the Mayor informally sound out Councillors before any action is taken in regard to the matter.”

9 December 2009

To the Ordinary Meeting

Councillor

**10.2 Notice of Motion - Pilot Program for Construction of Local Footpaths
by Work for the Dole Recipients**

TRIM REFERENCE: F2004/00289 - D02090745

AUTHOR: BS

Councillor Symington has given notice that at the Ordinary Meeting to be held on 9 December 2009 he will move the following Motion:

“That Council prepare a report, working within the existing Federal Government framework, for the implementation of a pilot program for the construction of local footpaths using “Work for the Dole” recipients.”

9 December 2009

To the Ordinary Meeting

Councillor

10.3 Notice of Motion - Election of New Delegate for the Board of Central Coast Tourism Inc

TRIM REFERENCE: F2004/07096 - D02090753

AUTHOR: BS

Councillor Graham has given notice that at the Ordinary Meeting to be held on 9 December 2009 he will move the following Motion:

"That Council elect a new delegate for the board of Central Coast Tourism Inc."

COUNCILLORS NOTE

As Council's nominated representative on the board of CCTI, I am becoming increasingly concerned about their financial position and my personal liability if the organisation was to become insolvent. I have therefore decided to resign as Council's representative.

9 December 2009

To the Ordinary Meeting

Councillor

11.1 Notice of Rescission - Central Coast Tourism Inc

TRIM REFERENCE: F2004/07096 - D02086639

AUTHOR: DV

Council, at the Ordinary Meeting held on 13 December 2006 gave consideration to a report regarding "Central Coast Gateway Centre".

At that meeting, Council resolved as follows:

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

- 1 *That Wyong Council decline to contribute to this project as:
 - a *No business case has been developed to justify the expenditure of such significant funds.*
 - b *There is no demonstrated advantage to the ratepayers of Wyong Shire in providing such a facility at Mount Penang.*
 - c *This is a "State Centre" as stated by Central Coast Tourism Inc and Tourism NSW and as such should be the responsibility of the New South Wales State Government, not the ratepayers of Wyong Shire.**
- 2 *That Council ask the Central Coast Tourism CEO as to why the business case documents and the plans for the centre were not provide as promised in the recent briefing."*

Council, at the Ordinary Meeting held on 27 May 2009 gave consideration to a report regarding "Current Funding Agreement Between Wyong Shire Council and Central Coast Tourism Incorporated."

At that meeting, Council resolved as follows:

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

- 1 *That Council in considering adoption of the 2009-10 Management Plan consider amending it so that the \$175,000 allocated to CCTI be reallocated to a program providing for project funding, relating to tourism marketing and promotions, that generates significant employment opportunities.*
- 2 *That Council staff report on the implementation of this resolution."*

A Rescission Motion has been received from Councillors D Vincent, S Wynn and L Matthews to be moved at the Ordinary Meeting of Council to be held on Wednesday, 9 December 2009, as follows:

"MOVE that the following resolutions carried at the Ordinary Meeting of Council held on 13 December 2006 and 27 May 2009 be rescinded:

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

- 1 That Wyong Council decline to contribute to this project as:
 - a No business case has been developed to justify the expenditure of such significant funds.*
 - b There is no demonstrated advantage to the ratepayers of Wyong Shire in providing such a facility at Mount Penang.*
 - c This is a "State Centre" as stated by Central Coast Tourism Inc and Tourism NSW and as such should be the responsibility of the New South Wales State Government, not the ratepayers of Wyong Shire.**
- 2 That Council ask the Central Coast Tourism CEO as to why the business case documents and the plans for the centre were not provide as promised in the recent briefing.*

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

- 1 That Council in considering adoption of the 2009-10 Management Plan consider amending it so that the \$175,000 allocated to CCTI be reallocated to a program providing for project funding, relating to tourism marketing and promotions, that generates significant employment opportunities.*
- 2 That Council staff report on the implementation of this resolution."*

Should the above Rescission Motion be carried, further notice is given that Councillors D Vincent, S Wynn and L Matthews will move the following motion:

"That Council endorse the position reached with Gosford City Council at the Joint Workshop held on 19 August 2009:

- 1 That Council support CCTI and a continuing regional approach to tourism.*
- 2 That Council jointly fund CCTI initially through base funding to finalise CCTI's current debt obligations.*
- 3 That Council jointly fund CCTI on an ongoing basis by means of project funding.*
- 4 That any presentations or documentation on the issues of tourism by CCTI should be made before the Joint Meetings of Wyong and Gosford Councils.*
- 5 That CCTI be requested to forward to an electronic copy of the current Business Plan to all councillors as soon as possible.*
- 6 That CCTI be requested to forward to an electronic copy the business plan, marketing plan, strategic plan and any other plans to all councillors as soon as possible.*
- 7 That ongoing funding is dependant on significant restructure of the operation."*