
WYONG SHIRE COUNCIL

REPORTS TO THE ORDINARY MEETING OF COUNCIL

TO BE HELD IN THE COUNCIL CHAMBER,
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 9 MAY 2007,
COMMENCING AT 5.00 PM

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ORDINARY MEETING OF COUNCIL

9 MAY 2007

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WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

General Manager's Report

165 Disclosure of Interests

F2006/02282 ED:MR

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

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

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

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

RECOMMENDATION

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

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

General Manager's Report

166 Proposed Inspections

F2006/02282 ED:MR

SUMMARY

Inspections proposed to be held on 23 May 2007 and prior to the second Ordinary Meeting are listed as follows:

Date of Inspection	Location	Requested By
23 May 2007	Wadalba Sporting Fields	Director Shire Services
23 May 2007	Valhalla Village 25 Mulloway Road, Chain Valley Bay	Director Shire Planning
23 May 2007	Proposed Temporary Desalination Plant – Mannering Park	Director Shire Services
23 May 2007	Harry Moore Oval, Toukley	Director Shire Services
23 May 2007	Warrigal and Taylor Streets, The Entrance Round about and drainage works	Director Shire Services
23 May 2007	Upgrade to Lower Wyong River Transfer System Filtration Plant, Old Maitland Road, Mardi	Director Shire Services

RECOMMENDATION

That the report on inspections to be conducted on Wednesday, 23 May 2007 be received and the information noted.

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

General Manager's Report

167 Proposed Briefings

F2006/02282 ED:MR

SUMMARY

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

RECOMMENDATION

That the report be received and the information noted.

Date	Briefing	Description	Time	Presented by
9 May 2007	Future Planning's Work Program 2007/2008	Proposed program 2007/2008	11.00am – 12.30 noon	Acting Manager Future Planning
9 May 2007	Water Authority Board Meeting	Briefing for the Water Authority Meeting of 16 May 2007	12.30 noon – 1.30pm	Shire Services Director
9 May 2007	Draft Wyong/Tuggerah Strategy	Results of submissions received during exhibition period	1.30pm – 3.00pm	Senior Strategic Planner
9 May 2007	Shire Entry Signs	Presentation of Mock-up	3.00pm – 3.15pm	Manager, Customer and Community Services & Landscape Architect

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

General Manager's Report

168 Address by Invited Speakers

F2006/02282 ED:MR

SUMMARY

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

RECOMMENDATION

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

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

General Manager's Report

169 Notice of Intention to Deal With Matters in Confidential Session

F2006/02282 ED:MR

SUMMARY

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

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

RECOMMENDATION

- 1 ***That pursuant to Sections 10A(2)(c), 10A(2)(d)(ii) and 10A(2)(g) of the Local Government Act, 1993, the following reports be dealt with in Confidential Session:***
 - W002 - Proposed Purchase of Land at 192 Virginia Road, Hamlyn Terrace for Drainage and Wildlife Corridor***
 - W003 - Deed of Agreement with F Hannan Pty Ltd***
 - W004 - Land & Environment Court Proceedings 10139 of 2007: 708 Pacific Highway, Hamlyn Terrace – DA/1482/2006***
 - W005 - Acquisition of Woongarra Sportsfields – Lots 85A and 86A DP 228337 Hakone Road, Woongarra.***
- 2 ***That the reason for dealing with the Report No W002 confidentially is that it is information that would, if disclosed, confer a commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the Council.***
- 3 ***That the reason for dealing with Report No W003 and W004 confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.***
- 4 ***That the reason for dealing with the Report No W005 confidentially is that it is information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.***
- 5 ***That, in accordance with the Council resolution, the General Manager will report on these matters to the meeting in Confidential Session.***

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

General Manager's Report

170 Confirmation of Minutes of Previous Meeting

F2006/02282 ED:MR

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 11 April 2007.

RECOMMENDATION

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

WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 11 APRIL 2007,
COMMENCING AT 5.00 PM

PRESENT

COUNCILLORS R L GRAHAM (CHAIRPERSON), D J EATON, K M FORSTER, R E STEWART, R C STEVENS AND W J WELHAM.

IN ATTENDANCE

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

THE MAYOR, COUNCILLOR R L GRAHAM, DECLARED THE MEETING OPEN AT 5.00 PM AND PASTOR JOHN BETTS READ THE OPENING PRAYER.

APOLOGIES

APOLOGIES FOR THE INABILITY TO ATTEND THE MEETING WERE RECEIVED ON BEHALF OF COUNCILLORS ROSE, PAVIER AND VEUGEN.

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

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

COUNCILLOR BEST HAS BEEN GRANTED LEAVE OF ABSENCE FOR THE MEETING OF 11 APRIL 2007.

AT THE COMMENCEMENT OF THE ORDINARY MEETING REPORT NOS 143, 144, 145 AND 149, WERE DEALT WITH FIRST THEN THE REMAINING REPORTS IN ORDER. HOWEVER FOR THE SAKE OF CLARITY THE REPORTS ARE RECORDED IN THEIR CORRECT AGENDA SEQUENCE.

Minutes of the Ordinary Meeting of Council held on 11 April 2007 (contd)

143 Disclosure of Interests

F2006/02282 ED:MR

149 - PROPOSED ALTERATIONS AND ADDITIONS TO "CAMP TOUKLEY"

COUNCILLOR WELHAM DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE DENYJENKO FIRM ARE INVOLVED IN THE PLANS PREPARED FOR CAMP TOUKLEY AND HE WAS INVOLVED IN A LONG RUNNING LEGAL CASE AGAINST THEM IN REGARDS TO THE POOR CONSTRUCTION OF HIS HOUSE AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED;

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE LEGAL MATTER IS RESOLVED AND BEARS NO IMPACT ON THE CAMP TOUKLEY RE-DEVELOPMENT."

149 - PROPOSED ALTERATIONS AND ADDITIONS TO "CAMP TOUKLEY"

COUNCILLOR EATON DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE ARCHITECT FORMERLY OWED HIS BUSINESS MONEY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON 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 ONLY ARCHITECT, NOT OWNER / DEVELOPER IS INVOLVED."

156 - PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR STEWART DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS ON THE BATEAU BAY PUBLIC SCHOOL COUNCIL AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEWART 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 THE ALLOCATION IS FOR AFTER SCHOOL CARE AND THE SCHOOL COUNCIL HAS NO INFLUENCE ON THE AFTER SCHOOL CARE."

160 – DEVELOPER CONTRIBUTIONS AND LEVIES – WYONG EMPLOYMENT ZONE

COUNCILLOR EATON DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT IT MAY AFFECT INDUSTRIAL LAND VALUES AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON 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 REPORT DOESN'T RECOMMEND ANY CHANGES."

Minutes of the Ordinary Meeting of Council held on 11 April 2007 (contd)

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

That the reports be received and advice of disclosures noted.

144 Proposed Briefings

F2006/02282 ED:MR

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

That the report be received and the information noted.

145 Address by Invited Speakers

F2006/02282 ED:MR

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

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

146 Confirmation of Minutes of Previous Meeting

F2006/02282 ED:MR

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

That the minutes of the previous Ordinary Meetings of Council held on 14 March 2007 and 28 March 2007 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

Minutes of the Ordinary Meeting of Council held on 11 April 2007 (contd)

LEAVE TO INTRODUCE MOTION OF URGENCY

COUNCILLOR EATON SOUGHT AND WAS GRANTED LEAVE TO INTRODUCE A MOTION OF URGENCY.

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

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

That Council consider a Motion of Urgency for a Contribution from the Community Benefit Grant Fund.

146A Motion of Urgency – Contribution from the Community Benefit Grant Fund

F2005/0881

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

That the amount of \$5,000 plus in kind support be allocated to the Formula 1 Superboat Event from the Community Benefit Grant Fund.

147 Development Control Plan Chapter No. 109 – West Wyong Area

F2004/08231 SA:LD

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

- 1 That in accordance with Clause 21 of the Environmental Planning and Assessment Regulations, Development Control Plan 2005 – Chapter No. 109 - West Wyong Area be adopted and appropriate notice be given within 28 days.***
- 2 That Development Control Plan 2005 – Chapter No. 109 - West Wyong Area be forwarded to the Department of Planning within 28 days.***
- 3 That the relevant 149 Certificates be annotated regarding the adoption of Development Control Plan 2005 – Chapter No. 109 - West Wyong Area.***

Minutes of the Ordinary Meeting of Council held on 11 April 2007 (contd)

- 4** *That the Section 94 Contributions Plan No 1 for the Wyong and Part Rural West District be updated as soon as practical in 2007 to reflect current population projections and infrastructure costs.*
- 5** *That all those who made submissions be advised of Council's decision.*

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

AGAINST: COUNCILLOR EATON.

148 **Chemical Storage Warehouse at Wyong**

DA/1949/2006 EA:EA

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

- 1** *That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions of consent.*
- 2** *That the General Manager be authorised to determine any application for minor modifications to the approved development plans or consent conditions.*
- 3** *That the variation to DCP 2005, Chapter No 75 Industrial Development be supported.*

149 **Proposed Alterations and Additions to "Camp Toukley"**

RSM:RSM DA2486/2005

COUNCILLOR WELHAM DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE DENYJENKO FIRM ARE INVOLVED IN THE PLANS PREPARED FOR CAMP TOUKLEY AND HE WAS INVOLVED IN A LONG RUNNING LEGAL CASE AGAINST THEM IN REGARDS TO THE POOR CONSTRUCTION OF HIS HOUSE AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED;

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE LEGAL MATTER IS RESOLVED AND BEARS NO IMPACT ON THE CAMP TOUKLEY RE-DEVELOPMENT."

Minutes of the Ordinary Meeting of Council held on 11 April 2007 (contd)

COUNCILLOR EATON DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE ARCHITECT FORMERLY OWED HIS BUSINESS MONEY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON 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 ONLY ARCHITECT, NOT OWNER / DEVELOPER IS INVOLVED."

MR PETER CHAPPELL, AS A RESIDENT OF CANTON BEACH, AGAINST THE PROPOSAL, ADDRESSED THE MEETING AT 5.10 PM, ANSWERED QUESTIONS AND RETIRED AT 5.16 PM.

MS DENISE LLOYD, REPRESENTING CAMP TOUKLEY AS CHIEF EXECUTIVE OFFICER, FOR THE PROPOSAL, ADDRESSED THE MEETING AT 5.17 PM, ANSWERED QUESTIONS AND RETIRED AT 5.20 PM.

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

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

150 Shire Wide Contributions Plan

F2004/00552 PAB

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

- 1 That in accordance with Clause 28 of Part 4 of the Environmental Planning and Assessment Regulations 2000, the draft plan be exhibited for public comment.***
- 2 That subject to no objections being received as a result of the public exhibition, the plan be adopted and public notice be given in accordance with Clause 31 of Part 4 of the Environmental Planning and Assessment Regulations 2000.***

Minutes of the Ordinary Meeting of Council held on 11 April 2007 (contd)

- 3 *That Council's existing contributions plans be amended to remove any duplication in the areas of cycleways and library stock that arises as a result of the adoption of the Shire Wide Contributions Plan.*
- 4 *That a briefing of Councillors be held prior to the results of the public exhibition being submitted to Council.*

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

AGAINST: COUNCILLOR EATON.

151 Maintenance Dredging of Tumbi Creek, Killarney Vale

LA/248/2006 KP/KP

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

- 1 *That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Clause 228 of the Environmental Planning and Assessment Regulations and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions.*
- 2 *That those who made submissions be advised of Council's decision.*

152 Revised Tender for Contract No CPA/94561 – Tumbi Creek Dredging

CPA/94561 MDL

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

- 1 *That subject to the granting of a Part 5 Assessment approval, Council accept the revised tender of Enviropacific Pty Ltd in the estimated Schedule of Rates amount of \$1,153,543.27 including GST (\$1,048,675.70 excluding GST) to undertake the dredging of Tumbi Creek under Contract CPA/94561.*
- 2 *That Council approve a contingency amount of \$115,000.00 including GST, (\$104,545.45 excluding GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.*

Minutes of the Ordinary Meeting of Council held on 11 April 2007 (contd)

153 Proposed 2007/08 Draft Management Plan

F2004/07006 MM

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

That the 2007/08 Draft Management Plan be adopted for the purpose of public exhibition in accordance with Section 405 of the Local Government Act 1993.

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

AGAINST: COUNCILLOR EATON.

154 Proposed Project to Improve the Intersection of Goorama Avenue and Pacific Highway, Blue Haven and to Provide an Improved Network of Shared Pathways

F2004/07739 AKP:JEM

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

- 1** ***That Council, following the successful community consultation process, proceed with the design and construction of the additional works to improve the intersection of Goorama Avenue and Pacific Highway, Blue Haven, and to provide an improved network of shared pathways.***
- 2** ***That Council authorise the acquisition of Lot 16 DP 230826 No. 29 Allambee Crescent, Blue Haven by direct purchase from the current owner for an amount to be negotiated by the General Manager, taking account of an assessment by a qualified valuer. In the event that negotiations with the property owner cannot be satisfactorily resolved, Council proceed to compulsorily acquire Lot 16 DP 230826.***
- 3** ***That Council authorise the affixing of the Common Seal of Wyong Shire Council to the Transfer and to any necessary applications to the Department of Local Government for the approval of the Minister and the Governor for compulsory acquisition, related to the acquisition of Lot 16 DP 230826 .***
- 4** ***That Council authorise the Mayor and the General Manager to sign all documents relating to the transfer of Lot 16 DP 230826 to Wyong Shire Council.***
- 5** ***That Council propose classification of Lot 16 DP 230826 as Operational Land.***
- 6** ***That the proposed Classification be advertised in accordance with Section 34 of the Local Government Act, 1993.***
- 7** ***That, if no adverse submissions are received, the classification be confirmed.***

Minutes of the Ordinary Meeting of Council held on 11 April 2007 (contd)

155 Conferences 2007

F2004/06466 ED

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

- 1 That interested Councillors be authorised to attend the conferences as detailed in the report.**
- 2 That reasonable expenses incurred in Councillors attending the conferences be met in accordance with Council's Facilities and Expenses Policy for Councillors.**

156 Proposed Councillors' Community Improvement Grants

F2006/00788 JL

COUNCILLOR STEWART DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS ON THE BATEAU BAY PUBLIC SCHOOL COUNCIL AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEWART 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 THE ALLOCATION IS FOR AFTER SCHOOL CARE AND THE SCHOOL COUNCIL HAS NO INFLUENCE ON THE AFTER SCHOOL CARE."

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

That an amount of \$5075.00 be allocated from the 2006/2007 Councillors' Community Improvement Grants as outlined in Attachment 1.

157 Australian Sister Cities Conference

F2004/06517 ED

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

That the report be received and information noted.

Minutes of the Ordinary Meeting of Council held on 11 April 2007 (contd)

158 Local Government Association Conference

F2004/06517 ED

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

That the report be received and information noted.

159 Information Reports

F2006/02282 ED:MR

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

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

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

That the Information Reports and recommendations of the Ordinary Meeting of Council, with the exception of report number 161 be received and the information noted.

160 Developer Contributions and Levies – Wyong Employment Zone

F2006/01781 PAB

COUNCILLOR EATON DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT IT MAY AFFECT INDUSTRIAL LAND VALUES AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON 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 REPORT DOESN'T RECOMMEND ANY CHANGES."

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

That the report be received and information noted.

Minutes of the Ordinary Meeting of Council held on 11 April 2007 (contd)

161 NSW Association of Mining Related Councils Inc

F2004/06808 ED

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

That the report be received and information noted.

162 Water Poll / Referendum

F2004/06534 ED

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

That the report be received and information noted.

163 Schedule of Bank Balances and Investments – February 2007

F2004/06604 KF

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

That the report be received and information noted.

164 Outstanding Questions Without Notice and Notices of Motion

F2005/00926 MW:SW

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

That the report be received and information noted.

Minutes of the Ordinary Meeting of Council held on 11 April 2007 (contd)

QUESTIONS WITHOUT NOTICE ASKED

Q039 – Contents of \$39.00 refit kit

Councillor Eaton

F2004/11989

Could Council review the contents of the \$39.00 refit kit, which includes a hose trigger nozzle?

Q040 – Activities and Achievements of Business Central Coast for Financial Year 2006/2007

Councillor Eaton

F2004/07942

Could Council report on the activities and achievements of Business Central Coast for this financial year?

Q041 - Property on the Corner of Warrigal and Taylor Streets, The Entrance

Councillor Stewart

Would Council please contact the owner of the partially demolished house on the corner of Warrigal and Taylor Streets, The Entrance, with the view of having it demolished? There is probably asbestos involved in the demolition as it is a very old house.

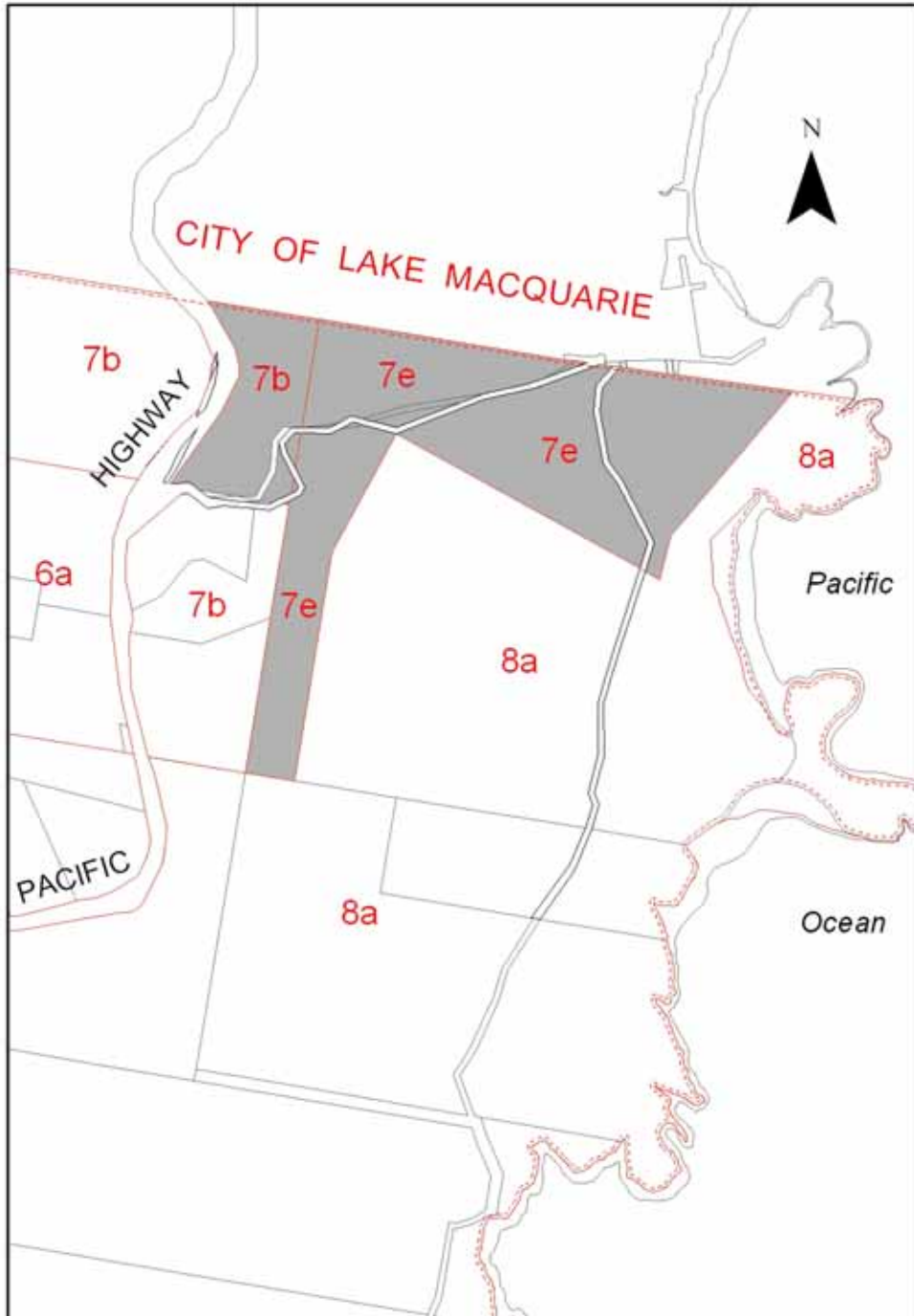
THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.25 PM.

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CHAIRPERSON

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171 Proposed Development at Catherine Hill Bay (Attachment 1)

Locality Plan



WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

171 Proposed Development at Catherine Hill Bay

DA/734/2005 JLC:JLC

SUMMARY

In April 2005, a staged development application was received for the construction of a 13 stage residential village development at Catherine Hill Bay. Stage 1 of the development comprises medium density housing and commercial development incorporating 56 dwellings, a village centre, community facilities, open space and the main internal roads for the entire village. No detail has been provided of the additional stages other than an assessed yield of 900 dwellings.

A separate and different application for the development of Catherine Hill Bay and Gwandalan has also been lodged with the Department of Planning (DoP) under Part 3A of the Environmental Planning and Assessment (EPA) Act, 1979, for which the Minister for Planning is the determining authority. Council provided comments to the DoP in March regarding that proposal and a final decision is yet to be made. This application has no bearing on the consideration of the current development application before Council.

Despite an application being lodged with the DoP, the initial application which was lodged with Council in 2005 has not been withdrawn and consequently remains a current application which must be determined. As such, the application has been examined having regard to the matters for consideration detailed in section 79C of the EPA Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Rosecorp Pty Ltd
Owner	Coastal Hamlets Pty Ltd
Application No	734/05
Description of Land	Lot 6, DP 774923, Lot 2, DP 809795 and Lot 4, DP 129431, No 595 Pacific Highway
Proposed Development	13 stage village development, with Stage 1 comprising medium density housing, tourist and commercial development including 56 dwellings, village centre, community facilities, open space and internal roads
Site Area	Stage 1 – 36,800 m ² Total site area – approximately 108 hectares
Zoning	7(e) Conservation Zone and 7(b) Scenic Protection Zone
Existing Use	Moonee Colliery
Value	\$20,000,000

Proposed Development at Catherine Hill Bay (contd)

RECOMMENDATION

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

PRÉCIS

- * Development application lodged in April 2005 for a staged residential, tourist and commercial village at Catherine Hill Bay.
- * Lake Macquarie City Council refused a development application for a club, sports club, residential apartments, serviced apartments and subdivision at Catherine Hill Bay, which was to form part of the overall village development.
- * The applicant lost an appeal to the Land and Environment Court against the refusal of the development by Lake Macquarie City Council.
- * The applicant lodged a separate application with the DoP under Part 3A of the EPA Act, 1979 for the development of Catherine Hill Bay and Gwandalan.
- * Council requested that the subject application be withdrawn, although no response was forthcoming.
- * Council's solicitors have advised that the site does not enjoy 'existing use rights' and therefore the application must be refused on the basis that it is prohibited development as residential development is not permissible in 7(e) zoned land. As the application fails on legal grounds, a detailed assessment on the merits of the proposal has not been undertaken.
- * It is recommended that the subject development application be refused on the basis that it is prohibited under Wyong Local Environmental Plan (WLEP) 1991.

Proposed Development at Catherine Hill Bay (contd)

INTRODUCTION

The subject development application for a 13 stage residential, tourist and commercial development at Catherine Hill Bay was lodged in April 2005, following the lodgement of an application to Lake Macquarie City Council for a club, sports club, residential apartments, serviced apartments and subdivision, also at Catherine Hill Bay.

Council proceeded to assess the application, although in July 2005, Lake Macquarie City Council refused its development application and Rosecorp lodged an appeal with the Land and Environment Court. The Court ruled that the land in question did not enjoy existing use rights and therefore the proposed development was deemed to be prohibited and the appeal was dismissed.

In July 2006, the Land and Environment Court delivered a second judgement in the Lake Macquarie matter, which again found in favour of the Council. In this instance, the applicant argued that the whole of the development could be characterised as a 'club', which was permissible in the zone. This argument was rejected and whilst the club component was permissible with consent, the residential component was prohibited.

Wyong Council also sought legal advice regarding the permissibility of the development within Wyong Shire and whether existing use rights applied. Legal advice was that as the applicant has not demonstrated existing use rights, the proposed development is prohibited.

Council was then advised that the applicant had approached the Minister for Planning and that the site would be considered under Part 3A of the EPA Act, 1979 - Major Projects, thereby making the Minister the determining authority. The assessment of the proposal under Part 3A is a separate process to Council's assessment of this application. However, Council did make a submission to the DoP raising significant concerns with the proposal including the following:

- * Social impacts
- * Size and location of open space
- * Traffic issues
- * Infrastructure and services
- * Contaminated land
- * Aboriginal heritage
- * European heritage

Proposed Development at Catherine Hill Bay (contd)

- * Bushfire assessment
- * Threatened species
- * Stormwater
- * Coastal issues and impacts

As staff resources have been focused on the review of the proposal as submitted to the DoP, the original development application which was lodged with Council in 2005 has been placed on hold. Despite an application being lodged with the DoP, the initial application to Council has not been withdrawn and consequently it remains a current development application which must be determined.

Throughout the course of the assessment of the application, Council identified an extensive number of issues with the application and sought additional information and reports. Whilst several meetings were held with the applicants, the majority of the information was not forthcoming.

Proposed Development

The proposal, as described within this development application, differs from that currently proposed within the applicant's submission to the DoP. The Masterplan provided within the development application identifies the following:

- * Up to 900 dwellings in medium density configurations. This includes apartments in the village centre, the final number of dwellings would be subject to consents for later stages but would not exceed 900
- * Approximately 1360 m² of retail space
- * Car parking including 103 basement and 26 external spaces to service the retail/commercial areas and the apartment accommodation
- * A 486 m² community centre comprising a gym and activity centre
- * A tennis court and playground, and public open spaces
- * Infrastructure including roads, stormwater drainage systems and wetlands and connection to a reticulated water and sewerage system

Proposed Development at Catherine Hill Bay (contd)

Stage one of the development includes the construction of the village centre, comprising 56 dwellings; the commercial and retail buildings; the gym and activity centre; the tennis court; the road network and associated infrastructure and landscaping. The first stage would also see construction of the first of the two ovals to be provided under the proposal. Details of the remaining 12 stages have not been provided and are not part of this development application.

Site Description

The subject site has an area of approximately 108 hectares, with the proposed development area being approximately 40 hectares including roads.

The land is located on the southern side of the ridge that forms the southern end of Catherine Hill Bay and the northern end of Deep Cave Bay. The eastern extremity of the ridge is the local ocean headland. Much of the headland is in public ownership south of the Wyong Local Government Area boundary.

The development site has been heavily modified by extensive mining operations and the ecological value of much of the land has been heavily compromised. However, the site also has a range of cultural values arising from its past mining use, its role as access to Moonee Beach, and the adjoining Munmorah State Conservation Area. Access to the site is from Montefiore Street, which is a private road.

STATUTORY REQUIREMENTS

Wyong Local Environmental Plan 1991

The site is zoned 7 (e) Coastal Lands Acquisition Zone and 7(b) Scenic Protection Zone, in which a significant proportion of the proposed development, comprising residential flat buildings, commercial premises and shops is prohibited. The development is located within the 7(e) portion of the site and was lodged on the basis that the site enjoyed existing use rights stemming from ongoing operations associated with mining activities, including rehabilitation works. However, as discussed above, Council is of the opinion that existing use rights do not apply to the land in question and therefore the proposed development is prohibited under WLEP 1991. Council does not have the ability to approve prohibited development and therefore the application must be refused.

Other Statutory Provisions and Policies

As discussed above, the proposed development is prohibited under WLEP 1991 and therefore no further assessment is required prior to refusal of the application. However, a brief overview of the other statutory provisions and policies that would have been applicable is provided below:

Proposed Development at Catherine Hill Bay (contd)

Wyong Local Environmental Plan 1991

Clause 39 - Concurrence (environmental protection zone)

This clause requires the concurrence of the Director-General of the DoP prior to granting consent for development within the 7(d) or 7(e) zone. As the site is zoned 7(e), concurrence would be required. As the proposed development is prohibited and is not supported by Council, formal concurrence has not been sought.

Clause 14 - Subdivision of land within Zone 7(e)

This clause requires a minimum lot size of 40 hectares. While the proposal does not include subdivision at this stage, future stages would require the subdivision of residential and commercial allotments, as well as the strata subdivision of residential flat buildings, which is not in keeping with the intent of this clause.

Clause 29 - Services

Council must not grant consent to any development unless adequate arrangements have been made for the provision of water supply and the removal or disposal of sewage. The site is not serviced by Council and would require works to be undertaken by Hunter Water in order to provide the necessary connections. No formal agreements in relation to water and sewer services have been reached between the developer, Council and Hunter Water and therefore Council is unable to grant consent for the proposed development under this clause.

Clause 35 - Development in vicinity of heritage items

The application was referred to the Heritage Office, although no response was received regarding the adequacy of the heritage impact assessment.

Section 91 of the Environmental Planning and Assessment Act 1979 – Integrated Development

The proposal was identified as integrated development, requiring the approval of the following agencies:

- * NSW Rural Fire Service
- * Mine Subsidence Board
- * Department of Natural Resources

General terms of approval were provided by each of the above.

Proposed Development at Catherine Hill Bay (contd)

State Environmental Planning Policies

The following State Environmental Planning Policies (SEPPs) apply to the development:

- * SEPP 65 Design Quality of Residential Flat Development – The Central Coast Design Review Panel assessed the proposal and recommended that the application be refused. The Panel concluded that the site analysis and resultant site planning require major modification to address a number of issues. In summary, the Panel's comments included the following:
 - *“There is no discernable connection between analysis, existing heritage and the site planning, road layout and landscape as well as architectural design principles proposed.*
 - *The very essence of the sense of place that characterises the existing mining village in its wider setting should inform the manner in which this new development is handled.*
 - *The Panel recommend abandoning the site design principles based on perfect circles and curvilinear roads following an artificial topography (which also may change significantly).*
 - *A rationale for the locations of height and clustering of dwellings has not been articulated at a master plan level for the total site. No strategic principles determining the locations or height or dwelling mix across the entire 320 ha were indicated.*
 - *A comprehensive visual analysis should be undertaken to determine the impact of any proposed development on the heritage structures and existing coastal landscape.*
 - *There should be a greater physical buffer between the new development and the existing township of Catherine Hill Bay (minimum 50 metres).*
 - *Three storey, big house type buildings are inappropriate as they would be visually intrusive in this delicate coastal setting.*
 - *Residential flat buildings above two storeys are inappropriate for this site.*

Proposed Development at Catherine Hill Bay (contd)

- *The existing heritage structures need to be respected not only as buildings (which is currently being done), but also in relation to one another, and the space surrounding them. This means that:*
 - a *a significant curtilage should be preserved around them;*
 - b *no roads or streets should dissect the space between them;*
 - c *the adjacent buildings should be informed in their alignment by the geometry and orientation of the historical structures.*
- *The total site master plan for the 320 ha site should determine appropriate densities for each of the precincts to ensure that healthy neighbourhoods are created, serviced by adequate common facilities.*
- *Circular, suburban spaces are alien to this setting; public open space should not be surrounded by roads.*
- *A comprehensive masterplan needs to be circulated to include all proposed pathways, roads and connections to the existing township and adjacent recreation areas should be provided. This circulation system should be at an absolute minimum – and minimise pedestrian and vehicular conflicts and provide access to common open space.*
- *The landscape should be used as a device to minimise the visual impact of new dwellings from surrounding advantage points.”*

Council concurs with the above comments which have not been satisfactorily resolved by the applicant during the course of the assessment of the application.

- * SEPP 71 Coastal Protection – The proposed development has the potential to impact on the coastal zone and insufficient information has been provided to satisfy the aims and objectives of this policy.
- * SEPP 11 Traffic Generating Development – The application was referred to the Roads and Traffic Authority (RTA) and the Regional Development Committee (RDC), who both raised concerns that have not been satisfactorily addressed.

Relevant State Authorities

- * RTA – The applicant and the RTA have not reached agreement with regard to intersection details on the Pacific Highway. Council would require the dedication of Montefiore Street and the internal bus route as public road; however, the applicant did not agree to this.

Proposed Development at Catherine Hill Bay (contd)

- * Hunter Water – Correspondence has been received from Hunter Water indicating that whilst servicing is possible it would require negotiation with Gosford Wyong Joint Water Authority and legislative change. In addition, it would require infrastructure extension to the site at the developer's cost. No action has proceeded with regard to this.
- * Heritage Office – No response was provided regarding the adequacy of the heritage impact assessment.
- * Lands Department – Advised it will not support the proposed road closure at this stage due to Council's objection.
- * DoP - Must provide concurrence prior to granting consent for development on land zoned 7(e) - Coastal Lands Acquisition Zone. This has not been sought as Council does not support the proposal.

OTHER RELEVANT ISSUES

A full assessment of the merits of the proposal has not been undertaken due to the application being prohibited. However, throughout the assessment of the development application, Council raised a number of significant issues, which still remain. Having regard to Section 79C of the EPA Act, it is considered that the following matters have not been adequately addressed:

Urban Design

Councillor concerns regarding the density of the overall development, the appropriateness of the relationship of the development with internal and adjoining open space, the height of buildings and the likely impacts on the character of the existing village were raised with the applicant. Additional detail with regard to the master planning of the total development was also requested, including site cross-sections and intended building envelopes. This information was not received.

Character

Council has concern regarding the impact of the development proposed on the character of the settlement of Catherine Hill Bay as it exists, including the need for the proposed development to integrate with the existing development and provide a recognisable town village core.

Impacts on Flora and Fauna

Inadequate information was provided with the application to determine the potential impact on flora and fauna. Although additional information was requested, the submitted information did not include any assessments of significance and did not make any conclusions as to which threatened species would be likely to be significantly affected by the proposal.

Proposed Development at Catherine Hill Bay (contd)

Although a separate process to Council's assessment, any development within the 7(e) (Coastal Acquisition Zone) would require a Property Vegetation Plan (PVP) to be approved by the Catchment Management Authority (CMA) for clearing associated with the proposal.

Social Impact

A social impact assessment was requested at the completion of the preliminary assessment of the DA, although no study was submitted.

The issues raised included:

- * The increase in population proposed by the current development and the substantial increase to the developed footprint in that area;
- * A need to foster community and village identity as part of the current proposal;
- * A need to ensure public access and integration with the surrounding National Park and foreshore areas;
- * The accessibility of the isolated community to social infrastructure;
- * The social mix of housing anticipated in the development. It is assumed that the future population may be more itinerant and of a higher socio economic profile than the existing population who have traditionally been retirees and mine workers; and
- * The creation of a dormant village.

Roads and Traffic

Agreement on the proposed road network has not been reached between Council, the developer and the RTA and the following issues remain unresolved:

- * The Traffic Report submitted with the application is inadequate and as a result, a full assessment of the application was unable to be undertaken by Council, the RTA and the Hunter Regional Development Committee.
- * No agreement has been reached with the RTA regarding works connecting to the Pacific Highway.
- * No resolution has been made with regard to the road closures and the dedication of roads as either public or private.
- * Inaccuracies have been identified between the traffic management measures recommended with the applicant's report and what is shown on the plans.

Proposed Development at Catherine Hill Bay (contd)

- * Insufficient information has been provided to confirm that the proposed roads can accommodate buses and heavy rigid vehicles.
- * Insufficient information has been provided regarding the movement of pedestrians and pedestrian linkages.
- * The proposed road layout is inefficient and does not complement the natural topography of the site.

Public Interest/Public Submissions

The proposal was advertised for 30 days from 11 May 2005, with 759 submissions being received from individuals and community groups, including the Gwandalan Precinct Committee. In summary, the following issues were identified:

- * Impact on the heritage value that currently exists within Catherine Hill Bay
- * Destruction of native flora and fauna
- * Increase in traffic, emissions and pollution
- * Construction noise
- * Increased crime
- * Lack of information regarding the existing miner's cottage
- * Question whether existing use rights apply
- * Lack of consideration regarding Aboriginal issues
- * Loss of a community "asset"
- * Destruction of the green buffer zone
- * Increased demand on water resources
- * Impact on the uniqueness of the area
- * The development does not complement the aims and objectives of SEPP 71 – Coastal Protection
- * Impact on the quality of life and loss of views
- * Impact on two new species of terrestrial orchid which have been discovered in the area.

Proposed Development at Catherine Hill Bay (contd)

As discussed previously within the report, a number of the issues listed above had been identified by Council and have not been adequately addressed by the applicant.

In addition, one letter of support was received listing the following reasons:

- * Financial investment and employment opportunities
- * Improved infrastructure
- * Improved community and recreational facilities.

CONCLUSION

The proposal cannot be supported in its current form as it is identified as prohibited development under Clause 10 of WLEP 1991. Other areas of non-compliance with the statutory controls including the LEP, SEPP 65, SEPP 71 and SEPP 11 have also been identified which prevent the application from being approved. On this basis, it is recommended that the application be refused.

Attachment 1

Locality Plan (1 page)

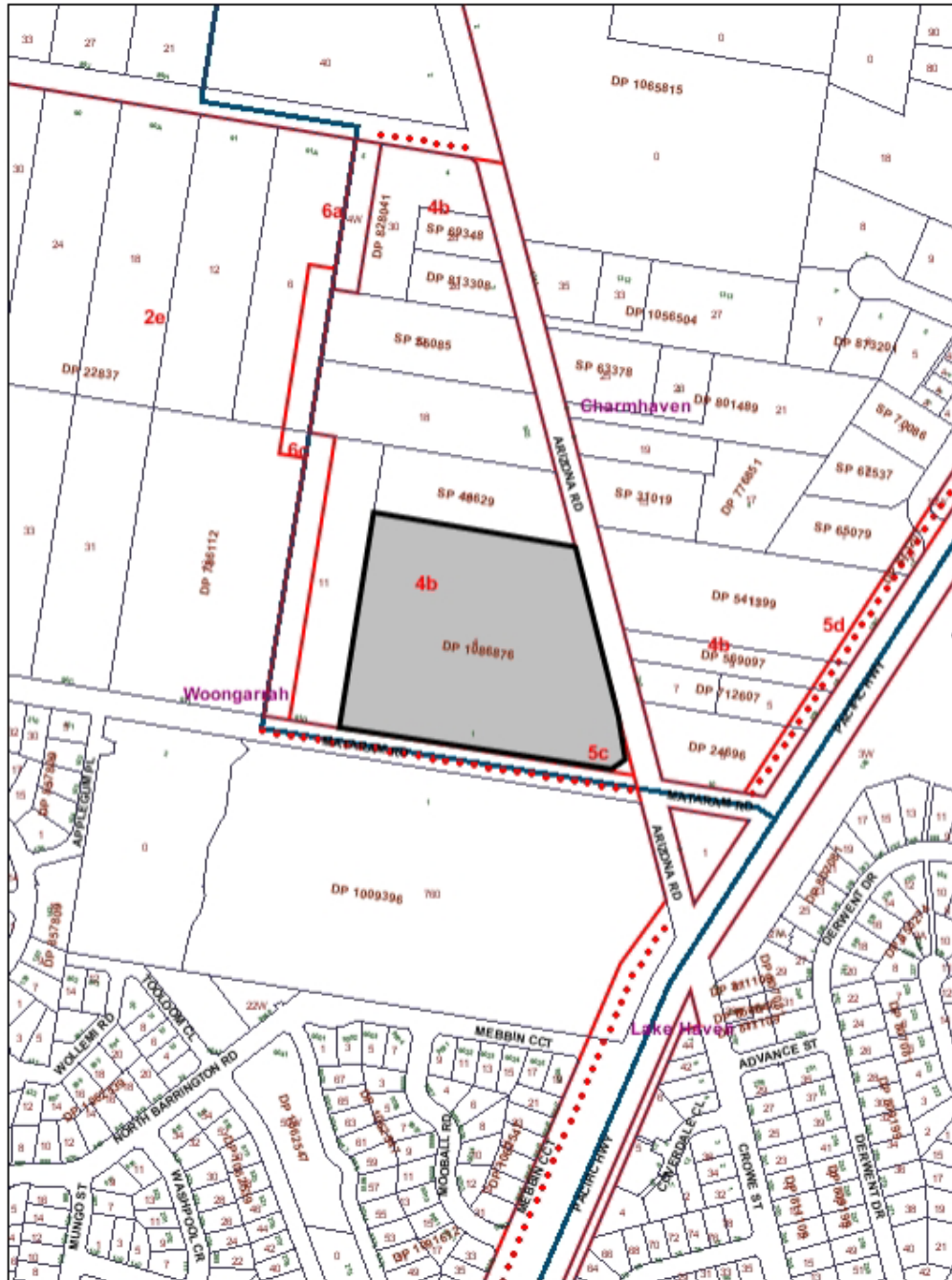
Enclosures

Plan 1 – Overall Site Layout
Plan 2 – Stage 1 Detailed Plans

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172 Borg Manufacturing - Deed of Agreement (Attachment 1)

Locality Plan



WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

172 Borg Manufacturing - Deed of Agreement

DA/545/2006 WKW

SUMMARY

An application for expansion of an existing industrial development at Charmhaven was received by Council in April 2006. The development involved the clearing of approximately one hectare of riparian vegetation, including 0.3 hectares of an ecologically endangered community.

Following extensive negotiations between Council, the Department of Natural Resources and the applicant, Council agreed to grant a Deferred Commencement Development Consent in April 2007. The Deferred Commencement condition required the applicant to enter into a Deed of Agreement regarding appropriate offsets for native vegetation loss prior to the granting of an operational development consent.

This report provides a brief discussion regarding the purpose of the Deed of Agreement and seeks endorsement from Council for the execution of the Deed.

RECOMMENDATION

- 1 That Council endorse the creation of a Deed of Agreement.**
- 2 That Council authorise the common seal of Wyong Shire Council to be affixed to the Deed of Agreement between Wyong Shire Council, Borg Group Pty Ltd and Darren and Dianna Borg.**
- 3 That Council authorise the Mayor and General Manager to execute the deed of agreement.**

BACKGROUND

Borg Manufacturing lodged an application to expand its existing industrial operations at its site on the corner of Mataram and Arizona Roads, Charmhaven.

The site contains approximately one hectare of native riparian vegetation, including 0.3 hectares of the ecologically endangered community Swamp Sclerophyll Forest on Coastal Floodplains. The development will necessitate the removal of all native trees and vegetation from the site, which was regarded as a considerable impact. Based on the impact on a riparian corridor, the Department of Natural Resources was hesitant to issue General Terms of Approval or a Part 3A Permit for the development, without some form of offset or habitat compensation.

Borg Manufacturing - Deed of Agreement (contd)

With no options available for retaining or conserving native vegetation on the subject site, Council and the Department of Natural Resources required the applicant to investigate options for preserving similar native vegetation elsewhere in the local area and/or provide funds towards rehabilitation of riparian corridors elsewhere within the Shire.

Agreed Offset Option

The Borg Group, the owners of the subject site, are also the part owners of a large parcel of land at the northern end of Arizona Road (Lot 791 DP 561747). Part of this parcel is cleared and used for agricultural and other activities while the remainder is heavily vegetated and contains several natural watercourses. The vegetated portion of the site contains similar riparian vegetation characteristics to that contained on the subject site, as well as other beneficial environmental characteristics.

After much negotiation, Council and the Department of Natural Resources have accepted an offset option, as follows:

- * The owners of Lot 791 DP 561747 (Borg Group Pty Ltd and D and D Borg) agree to enter into a deed of agreement with Wyong Shire Council to permanently protect/restrict development of land identified on the attached plan, within Lot 791 DP 561747, as compensation for removing all native vegetation from Lot 931 DP 613922 (the development site). (Council has received a draft deed of agreement; however a final deed is yet to be executed by both parties.)
- * Land to be protected from vegetation removal or damage is approximately 3.3 hectares in size and includes a 20 metre buffer of all natural watercourses. This is approximately three times the amount of native vegetation and ten times the amount of Endangered Ecological Community that will be removed from the subject site.
- * The protected land on Lot 791 is to be fenced and a Conservation Management Plan prepared by Borg Manufacturing. This Management Plan is to detail such things as weed and rubbish removal; and restoration and maintenance of vegetation and stream banks within the protected land for a period of three years.
- * Prior to an Occupation Certificate being issued for the building approved under the DA 545/2006 (for expansion of the existing industrial development), a Section 88b instrument reflecting the above is registered.

By agreeing to the proposed offset option, Council, the Department of Natural Resources and the applicant acknowledge the balance between significant employment generation and preservation of native vegetation.

Borg Manufacturing - Deed of Agreement (contd)

As previously stated, Deferred Commencement Development Consent has been granted to ensure that Borg Manufacturing meets the obligations contained in the offset option prior to Council issuing an operational development consent.

Council's endorsement of the execution of a Deed of Agreement is now sought to ensure the deed can be prepared and executed in an expedient manner.

CONCLUSION

Borg Manufacturing has sought Council's approval for the expansion of their industrial business in Arizona Road. Expansion will result in the removal of native vegetation; however this will be offset by the long term protection of high quality native vegetation within the same local area. Agreement regarding the proposed offset option is seen as an innovative and effective means of balancing environmental impacts with local employment generation.

A Deed of Agreement is required to formalise the agreed offset option and Council's endorsement is sought to ensure this occurs in an expedient manner.

Attachment 1

Locality Plan (1 page)

Enclosure

Plan indicating Preferred Offset Option

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WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

**173 Tenders for CPA 116777 Lower Wyong River to Mardi Dam
Transfer Upgrade Construction**

CPA/116777

SUMMARY

Evaluation and selection of tenders for Contract No. CPA 116777 – Lower Wyong River to Mardi Dam Transfer Upgrade Construction

RECOMMENDATION

- 1 *That Council accept the Tender Alternative 1 of Diona Pty Ltd in the estimated Schedule of Rates amount of \$3,698,203.09 including GST (\$3,362,002.81 excluding GST).***
- 2 *That Council approve a contingency amount of \$370,000 including GST (\$336,363.64 excluding GST), representing approximately 10% of the contract value, to provide for any unforeseen variations or additional works that may become necessary during the course of the project.***

BACKGROUND

As part of its strategy to augment and secure the region's water supply, Gosford and Wyong Councils have determined, amongst other initiatives, to undertake significant amplification works to the Mardi Dam/ Lower Wyong River water supply headworks.

The augmentation works include (Refer to Enclosure):

- 1 The staged upgrading of the Lower Wyong River to Mardi Dam Transfer System initially from its current capacity of 72 ML/day to 125ML/day.
- 2 Upgrading of the Mardi Dam to Mardi Water Treatment Plant Transfer System from its current capacity of 100 ML/day to 240ML/day.
- 3 Construction of the first stage of the Mardi High Lift Pumping Station to allow initial delivery of 160 ML/day (followed by future upgrading to 240 ML/day) from Mardi Water Treatment Plant to the existing Tuggerah No. 2 reservoir and the planned Tuggerah No. 3 reservoir.
- 4 Increasing the capacity of Mardi Dam from its existing capacity of 7,400ML to 8,800ML by raising the dam crest by approximately 2 metres.

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

The full range of the proposed augmentation works are part of the medium term works that are intended to enhance the system's yield and provide for future increases in demand. The works will also enhance the system's flexibility by increasing the current rate at which water can be transferred between the Wyong and Gosford supply systems.

The existing Lower Wyong River Transfer System was built in the 1960's and harvests run-of-river flows from Wyong River for storage in Mardi Dam. The water harvesting system consists of a weir on Wyong River, a 600mm diameter suction main and a pumping station located on the western bank of Wyong River immediately south of Woodbury Park. Water is transported from the pumping station to Mardi Dam via a 658mm diameter x 2.1 km long steel rising main. Whilst the pumping machinery is capable of pumping up to 125 ML/day, the system capacity is restricted to 72ML/day by the size of the existing suction and rising main pipework and the limited existing power supply.

Contracts for the design of the power supply have already been awarded and further contracts for its construction will be awarded by mid May 2007.

Studies undertaken during the concept design and investigation stage of the project identified that the system capacity can be increased to 125 ML/day by increasing the suction pipework diameter to 1,200mm and by duplicating the existing rising main with a second 1,050mm diameter rising main. The new rising main will facilitate further upgrading of system capacity when a new larger capacity pumping station is built. The design of the new pumping station is still in the preliminary investigation stage and is programmed for construction by 2011.

Upgrading of the transfer system to 125ML/day will result in an increase in system yield of 2,700 ML/annum.

Tenders for the manufacture and supply of pipes and fittings for the project were invited in October 2006 and reported to Council at its meeting of 8 November 2006. At the time of preparing this report, the majority of pipe and fitting had been delivered to the site and the outstanding fittings were scheduled for delivery by the second week of April.

The subject of this report is the evaluation of tenders received for the construction of the upgraded suction and rising main components of the Lower Wyong River Transfer System and the recommendation of the preferred tender.

The works for which tenders were invited comprise:

- * The construction of 30 metres of 1200mm diameter mild steel (MS) suction main from the existing intake chamber in Wyong River to the inlet of the existing pumps at the Lower Wyong River Pumping Station.
- * The construction of approximately 2000 metres of 1050mm diameter glass reinforced plastic (GRP) rising main from the Lower Wyong River Pumping Station to the existing inlet of Mardi Dam.

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

- * The restoration of Old Maitland Road.

The route of the new rising main parallels the route of the existing rising main which is located within an existing easement though private property for 300 metres and within the western shoulder of Old Maitland Road reserve for the balance of its length. Due to the restricted width of the Old Maitland Road reserve, the location of the existing rising main in the western shoulder and the heavy mature vegetation on the eastern shoulder, Council has been forced to adopt a route for that section of the new rising main within Old Maitland Road in the east-bound traffic lane.

The width of trench that will be necessary to accommodate the 1050mm diameter rising main and collateral damage caused by construction plant will effectively disturb the entire width of the east-bound traffic lane. Under normal circumstances, the disturbed road pavement would be reconstructed after construction and acceptance testing of the rising main. Such restoration would, under normal circumstances, be limited to restoring the road, as near as practicable to its pre-existing condition maintaining the existing road alignment and profile.

Tender Process

Tenders were publicly invited by advertisements placed in the Central Coast Express Advocate on Friday 15 December 2006 and the Sydney Morning Herald on Saturday 16 December 2006. Tenders were invited for the construction of the suction main and rising main on a Schedule of Rates basis contract with some lump sum items.

The Request for Tender documents provided for a completion period of 17 weeks. The closing date for tenders was specified as 11 January 2007.

The section of Old Maitland Road between Mardi Dam and its intersection with Yarramalong Road is currently in very poor condition. This section of road is programmed for total pavement reconstruction within the next five years. Significant economies could be achieved by bringing forward the reconstruction of Old Maitland Road to coincide with the restoration work that will be required following construction of the new rising main. Accordingly, a decision was made during the tender period to expand the scope of the contract works to include total reconstruction of the full width of the road pavement over approximately 1800 metres of old Maitland Road.

Addendum No.1 was issued on 4 January 2007 to advise tenderers of:

- * A change to the scope of work to include the full width reconstruction of Old Maitland Road after completion of the rising main and the granting of permission for a total closure of Old Maitland Road for a period of up to 8 weeks to allow the contractor to complete that section of the rising main within the road reserve with the need to deal with traffic.

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

- * The opportunity for tenderers to offer Council alternative tenders that offered a reduced time for completion (i.e. less than 17 weeks);
- * Additional information on the flowmeters to be provided under the contract;
- * Additional information on the environmental management requirements under the contract;
- * Geotechnical information relevant to the contract works;
- * Corrections of minor errors in the original Request for tenders documentation;
- * A non-mandatory pre-tender site meeting to be held on 16 January 2007, and
- * An extension of the closing date for tenders to 25 January 2007.

At the pre-tender meeting held on 16 January 2007, tenderers raised the issue that no provision had been made for additional time to undertake the increased scope of work required by Addendum No.1. In response, Council undertook to divide the works into two Separable Portions. Separable Portion 1 was to cover all the contract work associated with the construction of the suction and rising mains. Separable Portion 2 was to cover all work associated with the reconstruction of Old Maitland Road. Separable Portion 1 was specified with a time for completion of 17 weeks from the date of award of contract and Separable Portion 2 was specified with a time for completion of 23 weeks from the date of award of contract.

On 25 January 2007, following the non-mandatory pre-tender meeting, Addendum No. 2 was issued to:

- * Confirm Council's decision to divide the works into two Separable Portions with separate times for completion.
- * Provide tenderers with Council's response to a number of issues raised by tenderers at the Pre-tender meeting;
- * Provide tenderers with revised drawings for thrust restraints;
- * Provide tenderers with a copy of the project Review of Environmental Factors;
- * Provide tenderers with a copy of the conditions of the Part 5 Determination; and
- * Advise tenderers of an extension to the closing date for tenders to 1 February 2007

Council's pre-tender estimate for the expanded scope of works, prepared by the design consultant, was \$4,373,836.36.

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

EVALUATION OF TENDERS

Tenders were evaluated by a three member panel comprising one staff member from Wyong Council and two Department of Commerce officers from the Department's Wyong Project Office. The following threshold and weighted criteria formed the basis of this evaluation:

- * Ability to manage financial, safety and environmental risk;
- * The tendered price, price structure and any other potential costs to Council;
- * The tenderers ability to meet Council's time requirements (based on a review of the tenderer's tender programme and any qualifications that may affect the time for completion).
- * The tendered price and price structure; as well as any other potential costs to Council that may be identified;
- * Time for shut down of Pump Station No.1;
- * Demonstrated expertise and experience of proposed key personnel and proposed sub-contractors.

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Manager Contracts and Special Projects prior to the close of tenders. 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 and external advisors.

The evaluation was conducted according to the following process;

- * Assessment of receipt and conformance of tender/s.
- * Short listing of tender/s.
- * Detailed weighted evaluation of short listed tender/s.
- * Sensitivity analysis to variations in non-price criteria.
- * Due diligence checks of preferred tenderers.
- * Independent review of the tender selection process.

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

Assessment of Receipt and Conformance

Tenders closed at 2.00pm on Thursday 1 February 2007 with the following being received;

Tender	Estimated Schedule of Rates amount (ex. GST)	Status
1 Eire Contractors	\$2,367,090.90	Submitted on time
2 Trazlbat Pty Ltd	\$2,959,964.00	Submitted Late
3 Diona Pty Ltd	\$3,205,740.90	Submitted on time but subject to Qualifications
4 Lee McCourt	\$3,643,845.45	Submitted on time
5 Redline Contracting	\$3,773,372.73	Submitted on time
6 Kerroc Constructions	\$3,852,352.30	Submitted on time
7 EL Civil Engineering	\$ 3,993,960.90	Submitted on time
8 Milbant Constructions	\$4,715,728.10	Submitted on time
9 Quality Management and Construction	\$4,763,865.40	Submitted on time

Subsequent to the close of tenders concerns were expressed by the Wattanobi Local Precinct Committee that the closure of Old Maitland Road at a time when traffic on the Pacific Highway at Tuggerah was also subject to road works disruptions for a period of eight weeks would cause unacceptable inconvenience to local residents. In an effort to address those concerns, each of the tenderers were, on 8 February 2007, requested to advise the impact on their tenders, in terms of both time and cost of maintaining controlled two way traffic on Old Maitland Road by either:

Alternative 1 – One traffic lane open 24 hours a day; or

Alternative 2 – Total road closure during working hours of 7.00am to 5.00pm weekdays and one traffic lane open at all other times.

Only four tenderers, Eire Contractors, Diona Pty Ltd, Kerroc Constructions and Milbant Constructions responded to this request. Of those tenderers, two misinterpreted Council's intention in seeking the additional information. In the case of Diona Pty Ltd, its offer was based on the maintenance of traffic in one direction only. In the case of Kerroc Constructions, it indicated that its original tender provided for partial closure of Old Maitland Road with periods of full road closure from approximately 9.30am to 2.30pm.

In order to fully clarify Council's requirements, three of the four respondents, Diona Pty Ltd, Kerroc Constructions and Milbant Constructions, were issued with further directions explaining the proposed traffic arrangements and asked to resubmit their advice on the time and cost impact on their tenders.

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

To further reduce the impact of the works on traffic using Old Maitland Road, the opportunity was taken to ascertain the cost and time impacts of having the rising main acceptance tested in three sections allowing each section of road to be re-opened to traffic earlier than would otherwise be the case.

For reasons that are discussed at length below, Eire Contractors were not requested to reconsider its original advice.

Each of the three tenderers approached made satisfactory responses and the impact on the tender prices and times for completion are detailed in Table 1 below;

Table1

Tender	Estimated Schedule of Rates amount (ex. GST)	Additional Time for Completion Required for Alternative Tender
1 Eire Contractors	\$2,367,090.90	Not Applicable (Subject to Tenderer's Advice of an Error)
1a <i>Eire Contractors (Alternative 1)</i>	<i>3,003,454.54</i>	<i>10 weeks (Subject to tenderer's advice of a pricing error in its tender)</i>
1b <i>Eire Contractors (Alternative 2)</i>	<i>2,794,363.63</i>	<i>4 weeks (Subject to tenderer's advice of a pricing error in its tender)</i>
2 Trazlbat Pty Ltd	\$2,959,964.00	Late Tender Submission
3 Diona Pty Ltd	\$3,205,740.90	Not Applicable
3a <i>Diona Pty Ltd (Alternative 1)</i>	<i>\$3,355,641.81</i>	<i>2 weeks - Separable Portion 1 3 weeks - Separable Portion 2</i>
3b <i>Diona Pty Ltd (Alternative 2)</i>	<i>\$3,321,097.26</i>	<i>2 weeks - Separable Portion 1 3 weeks - Separable Portion 2</i>
4 Lee McCourt	\$3,643,845.45	No Alternative Offer Made
5 Redline Contracting	\$3,773,372.73	No Alternative Offer Made
6 Kerroc Constructions	\$3,852,352.30	Not Applicable
6a <i>Kerroc Constructions (Alternative 1)</i>	<i>\$3,938,170.48</i>	<i>3 weeks - Separable Portion 1 3 weeks - Separable Portion 2</i>
6b <i>Kerroc Constructions (Alternative 2)</i>	<i>\$3,899,170.48</i>	<i>3 weeks - Separable Portion 1 3 weeks - Separable Portion 2</i>
7 EL Civil Engineering	\$ 3,993,960.90	No Alternative Offer Made
8 Milbant Constructions	\$4,715,728.10	Not Applicable
8a <i>Milbant Constructions (Alternative 1)</i>	<i>\$5,115,728.10</i>	<i>8 weeks - Separable Portion 1 5 weeks - Separable Portion 2</i>
8b <i>Milbant Constructions (Alternative 2)</i>	<i>\$4,715,728.10</i>	<i>0 weeks - Separable Portion 1 0 weeks - Separable Portion 2</i>
9 Quality Management and Construction	\$4,763,865.40	No Alternative Offer Made

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

The Tender of Trazibat Pty Ltd

Tender No. 2, received from Trazibat Pty Ltd, was received by facsimile. The tender was received 34 minutes after the nominated closing time and was incomplete in that not all the required forms and schedules were included with the faxed tender.

The Conditions of Tender (clause 1.3.1) stipulate that:

"If lodging a tender by facsimile, only the Forms and Schedules need to be faxed to (02) 4351 2098. However, the appropriate number of complete hard copies must also be posted prior to the closing time".

As at the time of reporting, no complete or hard copies of the tender have been received. Enquiries have been made in an effort to establish whether there were any extenuating circumstances resulting in its late tender submission. Those enquiries have determined that at approximately 11.00am on the date of closing tenders, 1 February 2007, a representative of Trazibat contacted Council and stated that its hard copy of Addendum No. 2 of the Request for Tender, that was couriered to all tenderers on 25 January 2007, had not been received. In an effort to assist the tenderer, an electronic copy of the Addendum were emailed to it. At 1.00pm the same day a representative of the tenderer again called Council and advised that the hard copy of the Addendum had in fact been found in its mailbox.

Addendum No. 2 was a major addendum to the Request for Tender documents and contained essential information and documentation necessary to the preparation of a tender. The Tender Evaluation Panel was satisfied that the tenderers failure to check the contents of its mailbox and its failure to advise Council that it had not received the Addendum until three hours prior to the closing time for tenders did not constitute extenuating circumstances for the late tender submission. Accordingly the Tender Evaluation Panel considered that the Conditions of Tender and the provisions of the Conditions of Tender – Clause 1.3.1. required that the tender from Trazibat Pty Ltd be excluded from consideration.

The Tender of Eire Constructions Pty Ltd

Given the unusually low tender price submitted by Eire Contractors, the Tender Evaluation Panel considered it prudent to invite the tenderer to an interview with the Evaluation Panel to demonstrate its appreciation of the full scope of the works and the adequacy of its tender price. That interview was held on 5 February 2007.

During the interview the scope of work was reviewed with the tenderer. Requests were made for the submission of additional information relating to Eire Construction's proposed construction program and details of other non-price information submitted in support of its tender.

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Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

As stated above, on 8 February 2007 Eire Constructions, along with all the other tenderers other than Trazlbat Pty Ltd, were requested to advise the cost and time impacts of maintaining at least one lane of Old Maitland Road open under traffic control.

By facsimile dated 13 February 2007, Eire Constructions responded to Council's request of 8 February 2007 and also advised, amongst other things, that it had made an error in the pricing of its original tender submission in that none of the tendered rates or prices included any allowance for GST. Eire Constructions represented its failure to include GST in its rates and prices as a mistake.

In the opinion of the Tender Evaluation Panel, this advice represented a variation to Eire Construction's tender.

With respect to the circumstances under which a tenderer may vary a tender, the Local Government Regulations (Clause 176 – Tenders May Be Varied In Certain Circumstances) states that:

- “(1) any time before a council accepts any of the tenders that it has received for a proposed contract, a person who has submitted a tender may, subject to subclause (2), vary the tender:*
- by providing the council with further information by way of explanation or clarification, or*
- by correcting a mistake or anomaly.*
- (2) Such a variation may be made either:*
- at the request of council, or*
- with the consent of the council at the request of the tenderer, but only if, in the circumstances, it appears to the council reasonable to allow the tenderer to provide the information or correct the mistake or anomaly.*
- (3) If a tender is varied in accordance with this clause, the council must provide all other tenderers whose tenders have the same or similar characteristics as that tender with the same opportunity of varying their tenders in a similar way.*
- (4) A council must not consider a variation of a tender made under this clause if the variation would substantially alter the original tender.*

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

- (5) *A council must keep a record of:*
- the circumstances requiring the variation of a tender, and*
- the name of the staff member handling the matter."*

Advice received from Council's legal consultants indicated that the decision as to whether or not Council should allow Eire Construction's to correct the error in its tender ought to be made having regard to subsection (2) of Clause 176.

Acting upon that advice and having regard to the circumstances under which Eire Constructions sought to vary its tender, the Tender Evaluation Panel concluded that it would not, in this instance, be reasonable under the circumstances to allow the correction. In reaching this conclusion the Tender Evaluation Panel had regard to:

- * The Request for Tender documents and the tender pricing schedules made it clear that all tendered rates and prices were to be inclusive of GST. No other tenderer indicated any doubt that tenders were required to be priced on a GST inclusive basis.
- * That 12 days had passed from the date on which tenders closed and eight days from the date of interview before Eire Constructions advised Council of its mistake.
- * That Council could not be satisfied that the integrity of the tender process had not been compromised or that the Eire Construction's advice had been given without knowledge of the other tender prices and/or the relativity of its tender to the other tenders received.

Accordingly, Eire Constructions were advised that Council could not accept the variation to its tender and further consideration of the tender could proceed only on condition that the variation be withdrawn. By facsimile dated 15 February 2007, Eire Constructions advised that it was unable to withdraw its variation.

On the basis of that advice, the Tender Evaluation Panel determined that it was not reasonable to allow the tenderer to correct the mistake and that the tender of Eire Constructions should be excluded from further consideration.

The Remaining Tenders

The remaining eight tenders were considered to be fully conforming in terms of receipt and were further assessed for conformance with the general tender requirements, including specifications.

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Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

Several tenders were incomplete in that not all the required tender forms and schedules were fully completed or submitted. All tenders however submitted fully completed rate and price schedules. The Tender Evaluation Panel were of the opinion that none of the incomplete information was likely to be of a nature that would affect the competitiveness or relativity of any individual tender. Accordingly, the remaining eight tenders were invited to submit any missing or incomplete tender schedules and were progressed to the next phase of evaluation.

No tenderer submitted an alternative tender for a shorter completion time of less than 17 weeks.

Shortlisting

As stated above all tenders other than those of Trazibat Pty Ltd and Eire Constructions Pty Ltd were progressed to the Shortlisting phase as tabled below:

Estimated Schedule of Rates Amount (ex GST)			
Tender	Original Tender subject to Total Road Closure	Alternative 1 Tender subject to One Lane Open 24 hrs/day	Alternative 2 Tender subject to One lane Open Nights and Weekends Only
3 Diona Pty Ltd	\$3,205,740.90		
3a Diona Pty Ltd (Alternative 1)		\$3,355,641.81	
3b Diona Pty Ltd (Alternative 2)			\$3,321,097.26
4 Lee McCourt	\$3,643,845.45		
5 Redline Contracting	\$3,773,372.73		
6 Kerroc Constructions	\$3,852,352.30		
6a Kerroc Constructions (Alternative 1)		\$3,938,170.48	
6b Kerroc Constructions (Alternative 2)			\$3,899,170.48
7 EL Civil Engineering	\$ 3,993,960.90		
8 Milbant Constructions	\$4,715,728.10		
8a Milbant Constructions (Alternative 1)		\$5,115,728.10	\$4,715,728.10
8b Milbant Constructions (Alternative 2)			
9 Quality Management and Construction	\$4,763,865.40		

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

The tender prices of Milbant Constructions and Quality Management and Construction are at least \$721,768 higher than the next lowest tender. The Tender Evaluation Panel considered these tenders to be so uncompetitive on the basis of price that they could never be preferred over the other tenders irrespective of how highly they might be rated in the non-price criteria. Accordingly, the Tender Evaluation Panel determined that the tenders of Milbant and Quality Management and Construction did not warrant being progressed to the next stage of full weighted evaluation.

Weighted Evaluation

The shortlisted tenders selected by the Tender Evaluation Panel for full weighted evaluation were:

Tender	Estimated Schedule of Rates Amount (ex. GST)
3 Diona Pty Ltd	\$3,205,740.90
3a <i>Diona Pty Ltd (Alternative 1)</i>	\$3,355,641.81
3b <i>Diona Pty Ltd (Alternative 2)</i>	\$3,321,097.26
4 Lee McCourt	\$3,643,845.45
5 Redline Contracting	\$3,773,372.73
6 Kerroc Constructions	\$3,852,352.30
6a <i>Kerroc Constructions (Alternative 1)</i>	\$3,938,170.48
6b <i>Kerroc Constructions (Alternative 2)</i>	\$3,899,170.48
7 EL Civil Engineering	\$ 3,993,960.90

The three lowest priced shortlisted tenders in terms of both the original tender submissions and the alternative tenders are those of Diona Pty Ltd, tenders 3, 3a and 3b in the respective estimated schedule of rates amounts of \$3,205,740.90, \$3,355,641.81 and \$3,321,097.26 excluding GST.

As stated above the tender of Diona Pty Ltd, as originally submitted, was subject to 43 individual qualifications. Of these qualifications, 29 were considered by the Evaluation Panel to merely represent Diona's interpretation of various contract requirements. The Tender Evaluation Panel was satisfied that these qualifications were acceptable in that they did not represent a deviation from the contract requirements and would not incur Council in any additional cost or delay.

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

An interview was held with representatives of Diona on 15 February 2007. At the interview, the remaining 14 tender qualifications and other aspects of Diona's tender were discussed. Subsequent to the interview, Diona advised, in writing, that it was prepared to withdraw nine of the remaining tender qualifications without adjustment to its tender prices and rates. Diona also agreed to withdraw a further tender qualification, dealing with its tender qualification to substitute PVC pipe for the specified mild steel pipe to be used in the construction of a scour line, for an adjustment in its tender price of a \$6,361.00 excluding GST. The Tender Evaluation Panel considered this offer by Diona represented reasonable value to Council and ought to be accepted.

The four qualifications not withdrawn by Diona relate to:

- a The use of concrete, in lieu of epoxy mortar, for the repair of penetrations made to the wall of the Lower Wyong River Pumping Station;
- b The use of a standard 274mm diameter valve on the rising main scour line in lieu of the specified (non-standard) 400mm diameter valve;
- c The use of suitable site excavated material won on site for the replacement of any unsuitable subgrade materials encountered on site;
- d No site accommodation being made available by the contractor for Council staff.

The impact of these qualifications were considered by the Evaluation Panel in detail and where necessary advice was sought from the project design consultant. Those considerations concluded that qualifications a, b and c were acceptable and that qualification d was of no consequence as Council would not require the contractor to provide any site accommodation for its staff.

However, the Evaluation Panel considered that as the other tenders were not subject to the same qualifications the Diona tenders should reasonably be adjusted, for the purposes of comparison only, for the estimated value of the four qualifications. The value of the qualifications agreed by the Evaluation Panel was \$43,150.00.

After application of the additional \$6,361.00 offered by Diona in consideration of its qualification on the scour line pipe material and the assessed value of the four qualifications not removed, the adjusted tender amounts and the weighted evaluation scores assessed by the Evaluation Panel are as follows:

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

Tender	Estimated Schedule of Rates Amount adjusted for qualifications for the purposes of evaluation (ex. GST)	Weighted Evaluation Score
3 Diona Pty Ltd (<i>adjusted by \$6,361.00 + \$43,150.00</i>)	\$3,255,251.90	95
3a Diona Pty Ltd (<i>Alternative 1 adjusted by \$6,361.00 + \$43,150.00</i>)	\$3,405,152.81	96
3b Diona Pty Ltd (Alternative 2 adjusted by \$6,361.00 + \$43,150.00)	\$3,370,608.26	93
4 Lee McCourt	\$3,643,845.45	86
5 Redline Contracting	\$3,773,372.73	78
6 Kerroc Constructions	\$3,852,352.30	74
6a Kerroc Constructions (<i>Alternative 1</i>)	\$3,938,170.48	61
6b Kerroc Constructions (<i>Alternative 2</i>)	\$3,899,170.48	70
7 EL Civil Engineering	\$ 3,993,960.90	72

The weighted evaluation scores detailed in the above table took account of the fact that the scope of work and conditions of contract that applied to the original tenders was different to those applying to the alternative tenders and that those differences are reflected in the tender price. Accordingly, to avoid any undue bias in favour of the original tenders, all original tenders were directly evaluated against each other and all alternative tenders were evaluated against each other. The evaluation of the alternative tenders was made on the same basis as that applied to the original tenders with the additional consideration of the degree of public inconvenience inherent between the Alternative 1 and Alternative 2 tenders.

The three highest scoring tenders are those of Diona Pty Ltd. The same three tenders are also the three lowest priced shortlisted tenders in terms of both the original tender submissions and the alternative tenders. Each of the three Diona tenders are based on differing traffic management conditions for Old Maitland Road as follows:

Tender	Estimated Schedule of Rates Amount adjusted for negotiated withdrawal of qualification on scour line material at \$6,361.00, excl GST	Old Maitland Road Traffic Management
3 Diona Pty Ltd	\$3,221,101.90	Total road closure for 8 weeks followed by controlled one lane 2-way traffic 24 hours/day for further 8 weeks
3a Diona Pty Ltd Tender Alternative 1	\$3,362,002.81	Controlled one lane 2-way traffic 24 hours/day for 11 weeks
3b Diona Pty Ltd Tender Alternative 2	\$3,327,458.26	Total road closure 7.00am – 5.00pm week days, controlled one lane 2-way traffic 5.00pm – 7.00am week nights and weekends for 11 weeks

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

Diona's Tender Alternative 1 (one lane open 24 hrs) is priced at \$34,544.55 (excluding GST) higher than its Tender Alternative 2 (one lane open 5pm – 7am). However, as the majority of traffic on Old Maitland Road occurs during the period 7.00am to 5.00pm, the Evaluation Panel considered that the additional cost of Tender Alternative 1 was more than offset by its inherently superior traffic flow conditions and community amenity. In the opinion of the Evaluation Panel, Diona's Tender Alternative 2 did not offer any advantages to warrant its further consideration against its original and Alternative 1 tenders.

Final deliberations were therefore restricted to consideration of Diona's original tender, based on an eight week total closure of Old Maitland Road, followed by a further eight week period of partial road closure and its Alternative 1 tender, based on one lane of controlled traffic being available 24 hours a day over an eleven week period.

The cost differential between Diona's original tender and its Alternative 1 tender is \$149,900.91 (excluding GST). For this additional expenditure Council will be in a position to adequately address the community's concerns over the total closure of Old Maitland Road with minimal disruption to the construction program for the contract works.

In the view of the Tender Evaluation Panel, the additional cost associated with Diona's Tender Alternative 1 represents good value for the additional resources that the contractor will need to deploy to affect traffic control through the work site during the construction period. Accordingly, it was the Panel's opinion that amongst all the tenders received, Diona's Tender Alternative 1 represented best value to Council.

Due Diligence

Diona Pty Ltd is a substantial Sydney based company that has satisfactorily completed major contracts for Sydney Water, Northcoast Water and other private sector companies. The company recently completed the major \$10 million contract for Council for the design and construction of the Morisset to Warnervale Trunk Main. The company's performance on that contract met all contractual requirements.

The company's supporting referees have been checked and the company has received above average recommendations. The company's tender was consistently ranked higher in the non-price criteria and is considered well capable of completing the works specified under this contract.

Diona's tender program shows that if the contract is awarded by mid May, site works will commence mid June with construction scheduled to be completed by the end of October 2007.

A financial assessment undertaken by Council's independent financial assessor, Kingsway Financial Assessments has resulted in Diona Pty Ltd being rated as "acceptable" for a contract of this value at this point in time.

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

On the basis of the information provided by the tenderer, Kingsway Financial Assessments and independent referees, it is considered that Diona Pty Ltd possess all of the technical, financial and managerial skills and resources necessary to satisfactorily complete this contract.

The value of Diona's tender is 23% under Council's pre-tender estimate prepared by Council's design consultant. However having regard to the full range of tender prices it can be confidently assumed that the design consultant's estimate was overly conservative.

Process Review

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

BUDGET

For the reasons detailed earlier in this report, the contract works include the total full width pavement reconstruction of approximately 1500 metres of Old Maitland Road. Of this reconstruction, approximately half the pavement width would have needed to be reconstructed as a direct consequence of the pipeline construction. Additionally, construction traffic generated by the works and the need to divert all public traffic onto the westbound lane would reasonably require at least a reseal of the westbound lane.

The total cost of the road reconstruction component of the project is estimated at \$1,050,000. Of that total estimated cost, the cost of the road works that will be necessary as a direct consequence of the project is estimated at \$650,000.

To ensure that the road reconstruction costs are equitably shared between Council's Water Supply Capital Works and the Roads Rehabilitation Programmes, the total road reconstruction cost will be distributed on the basis of:

- * Approximately \$650,000 to be funded by the Water Supply Capital Works Programme, and
- * Approximately \$400,000 to be funded by the Roads Rehabilitation Programme.

On the basis of this cost sharing proposal the total estimated project cost to be borne by the Water Supply Capital Works Programme will be \$2,962,002.81 (\$3,362,002.81 less \$400,000). This cost is being jointly funded by both Wyong and Gosford Councils on a 50/50 basis. Gosford Council has confirmed the availability of its funding. Wyong Council has sufficient funding available from both its Water Supply Capital Works and Roads rehabilitation Programmes to finance the project for both the 2006/07 and 2007/08 financial years.

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Director's Report
Shire Services Department

Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction (contd)

TIME-FRAME

Based upon the tender construction program provided by Diona Pty Ltd and an award of contract on 14 May 2007 it is predicted that:

Construction works will commence on site by 21 June 2007.

All pipeline construction works will be completed by 10 September 2007.

The reconstruction of Old Maitland Road will be completed by 24 October 2007.

LOCAL CONTENT

Diona Contractors is a Sydney based company based in Castle Hill, N.S.W. intending to employ local labour, local subcontractors and utilising local plant hire companies and suppliers.

It is expected that the contract works will generate approximately 10,000 man hours of locally sourced labour.

CONCLUSION

Having regard to all of Council's priorities and objectives for this project, the Tender Alternative 1 (tender 3a) from Diona Pty Ltd in the estimated Schedule of Rates amount of \$3,362,002.81 is the highest ranked tender and is the tender that represents best value to Council.

Enclosure

Plan – Lower Wyong River Transfer System Upgrade

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

174 Contract CPA/94060 – Provision of Communication Services

CPA/94060 GJA:CM

SUMMARY

Evaluation and selection of tenders for Contract No CPA94060 – Provision of Communication Services.

RECOMMENDATION

- 1** *That Council accept the offer tendered by Optus Pty Ltd for mobile voice services with call rates set for a period of two years with the option available to Council of two yearly extensions for a maximum of up to six years commencing on 1 April 2007. The expenditure is estimated to be \$107,000 per annum including GST however actual expenditure may vary significantly with fluctuations in demand.*
- 2** *That Council accept the offer tendered by Macquarie Telecom Pty Ltd for fixed landline services with call rates set for a period of two years with the option available to Council of two yearly extensions for a maximum of up to six years commencing on 1 April 2007. The expenditure, including Service and Equipment charges, is estimated to be \$532,000 per annum including GST however actual expenditure may vary significantly with fluctuations in demand.*
- 3** *That Council reject all of the tendered offers for Internet services and continue to utilise these services from the current supplier as none of the tenders received were competitive. Continuing to use the current arrangement represents the most cost effective solution for Council.*
- 4** *That Council defer the decision for Wide Area Network.*
- 5** *That Council approve the acquisition of "Gateway" technology to take advantage of the new mobile services offered by Optus.*

BACKGROUND

As shown in Table 1 Council currently spends in excess of \$1,000,000 per annum on communication costs. In July 2006 Council commenced a tender for these services to ensure Council is receiving the most competitively priced services available in the market.

Contract CPA/94060 – Provision of Communication Services (contd)

Table 1: Current Annual Expenditure for Carrier Services 05/06 (inc. GST)

Service Type	Primary Provider	Agreement End Date¹	Current Annual Expenditure
Mobile services and call rates	Telstra	Individual contracts. Most expired and continued ad hoc.	\$282,698
Fixed land line call rates	Telstra	No contract – ad hoc only	\$352,415
Fixed land line services (equipment rental etc.)	Telstra	No contract – ad hoc only	\$326,000
Internet services and rates (All access, including work from home is through the connection at the Chambers. Access for the public at the libraries is through ADSL connections at the libraries.)	Verizon	Partly funded ² – Annual renewal	\$34,496
Wide Area Networking (WAN) services and rates. (Data access for work from home and sites with up to 3 computers such as Treatment Plants, Pre-Schools, ADSL/Broadband based access, excluding private and microwave links)	AAPT	6 October 2006 – ad hoc continuation	\$64,079
Mobile phone management	Stratatel	No contract – ad hoc only	\$20,000
Overall Total ³			\$1,079,688

Note

- 1 *When existing agreements expired the provider automatically continued the service, with no impact or improvement on current rates, on a monthly basis until new agreements were established.*
- 2 *The cost of Council's main Internet connection at the Chambers is partly subsidised by NSWNET.*
- 3 *Microwave links to the Charmhaven and Long Jetty depots, as well as other links which are established internally are not included.*

Contract CPA/94060 – Provision of Communication Services (contd)

A previous tender by other Councils (Group Council Tender GCT-T1) managed by Phone Consultants Pty Ltd and facilitated by PABX Advisory Services achieved significant savings of up to 60% for the participating Councils.

Council therefore decided to participate in a similar group tender (GCT-T2) with five other Councils. This tender process was facilitated by PABX Advisory Services.

PABX Advisory Services is an independent Local Government specialist communications consultancy with relevant technical expertise and extensive industry knowledge.

As part of their consultancy PABX Advisory Services performed the following tasks during the tender;

- * Preparation of the tender documentation including detailed specifications and conditions.
- * Detailed analysis of tender responses and provided a written report and recommendation.
- * Project Management and implementation.

Further ongoing services that PABX Advisory Services will provide for the life of the contract include;

- * Bi-Annual Rate compliance checking.
- * Mobile Phone Management System, training and implementation.
- * Bi-Annual account management.
- * Annual Market reviews and re-tendering if considered necessary.
- * General Communications Consultancy services as needed.

These services involve no direct extra cost to Council as this fee is built into the tendered price. The funding for these services is provided by an annual 6% fee paid by the successful telecommunication service provider to PABX Advisory Services. The percentage is calculated based on the total annual invoiced cost, to Council, of the services provided (estimated at \$33,400). Currently Council utilises Stratatel and incurs a direct cost of \$20,000 per annum, however the current service is limited to mobile phone management. The new service to be provided under this contract by PABX Advisory Services detailed above represents better value for money to Council.

Contract CPA/94060 – Provision of Communication Services (contd)

A total of six Councils, including Wyong Shire Council, nominated their interest in participating in the GCT-T2 tender process. These being;

- a Hurstville City Council
- b Wyong Shire Council
- c Burwood Shire Council
- d Brewarrina Shire Council
- e Broken Hill City Council
- f Greater Taree City Council

The costs associated with the hosting of the GCT-T2, including advertising costs and administration costs, were shared equally between all participating Councils.

STRUCTURE OF REQUEST FOR TENDER (RFT)

The tender specifications called for the provision of four telecommunications service categories labelled:

- S1 – Mobile services and call rates.
- S2a – Fixed land line call rates.
- S2b – Fixed land line services (equipment rental etc).
- S3 – Internet services and rates.
- S4 – Wide Area Networking (WAN)¹ services and rates

Note

¹ Council's Wide Area Network is setup so that the public network is used to provide secure access between remote Council sites. Council currently uses these connections for home workers, Councillors and miscellaneous smaller sites. This is provided over a broadband connection.

An offer to tender was advertised for any combination of S1 to S4.

All tenderers were required to submit offers using the electronic pro forma sheets provided in the tender. Responses in hard copy form as well as electronic form were admissible. The tenderers were provided with estimates of the demand volumes and were required to provide unit prices for each of the services offered.

Contract CPA/94060 – Provision of Communication Services (contd)

Each Council assessed the tender in accordance with its own tender processes and with its own specific criteria. Decisions of the other participating Councils have no bearing on the final outcome for Wyong Shire Council.

It was a requirement of the RFT that tenders be held valid for a period of 12 months from tender closing date to allow current agreements to expire. This was also to provide sufficient time for Council to identify the most advantageous solution for its WAN services, which was the most complex category with a variety of technical solutions (such as 3G) available, some still in development.

It is intended to enter into a two year contract with the recommended telecommunications providers with either party able to exercise two year extensions up to six years subject to market price. In addition Council may exit the contracts in 'any given' 12 month period should agreed key performance indicators that form part of the Service Level Agreements not be met.

TENDER PROCESS

Tenders for the provision of the following services were publicly advertised on 13 June 2006 for a closing date of 11 July 2006.

The tender process followed was in compliance with the Local Government General Regulations 2005: Part 7 Tendering under the *Local Government Act 1993*.

The following addenda were issued to all prospective tenderers during the invitation period;

- 1 Variation of Consultants fee (issued 5 July 2006) from 9% to 6%, as was agreed with participating councils.
- 2 Extension of the closing time by one week (issued 7 July 2006). Telstra requested this additional time, and it was considered appropriate by all participating Councils in order to obtain the most competitive rates of major communication carriers in the market.

On 13 July 2006, Hutchinson Three Pty Ltd requested a further extension of the closing date, but this was declined by the participating Councils for the reason that the one week extension already granted to all participants was sufficient to allow for adequate responses.

Tenders closed at Hurstville City Council at 10:00am on 18 July 2006.

NO TENDER FROM TELSTRA

It is interesting to note that Australia's largest telecommunications provider did not submit a tender. Telstra made several approaches to Council and the consultant during the tender period, however ultimately declined to tender.

Contract CPA/94060 – Provision of Communication Services (contd)

On 6 July 2006, Telstra proposed to negotiate with Council directly, rather than participating in the tender. Council declined and encouraged Telstra to participate in the competitive tender process.

On 7 July 2006 a request from Telstra was received to extend the tender closing date by one week, which was granted by all participating Councils in the interest of maximising competition.

On 17 July 2006 Telstra advised Council that Telstra had declined to submit the tender for commercial reasons.

On 4 October 2006, Telstra submitted an unsolicited proposal to reduce its voice charge rate, on the provision that Council commit to a two year contract with Telstra. Council did not consider the proposal further as it was considered inappropriate given the competitive tendering process that was not yet concluded. However, Telstra has identified the estimated savings to Council and it has been confirmed that the Telstra offer does not represent better value for money to Council. Accordingly, the Tender process should proceed as intended.

EVALUATION METHOD

The RFT provided for tenders to be evaluated against the following criteria;

- * Compliance with general specifications & tender requirements
- * Compliance with Council specific requirements¹
- * Price

Note

1 The only Council specific requirement for Wyong was mobile coverage for service category S1.

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).

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and related correspondence, external advisors and miscellaneous Council staff approached for their specific expertise.

The evaluation was conducted according to the following process;

- 1 Assessment of receipt of tenders.
- 2 Assessment of compliance with general & Council specific requirements.

Contract CPA/94060 – Provision of Communication Services (contd)

- 3 Detailed Price comparison of conforming tenders on a category by category basis.
- 4 Due diligence checks on preferred tenderers.
- 5 Independent review of the tender selection process.

ASSESSMENT OF RECEIPT

The following table details the tenders received (there were no late tenders).

Table 2: Received Tenders

	Tenderer	Hereafter referred to as	Service Categories tendered for
1	Optus	Optus	S1, S2a and b, S3, S4
2	Macquarie Telecom Pty Ltd	Macquarie	S1, S2a and b, S3, S4
3	SPT COM Pty Ltd trading as SOUL	Soul	S2a and b, S3, S4
4	ATI Australia Pty Ltd	ATI	S3, S4
5	Vodafone Pty Ltd	Vodafone	S1

ASSESSMENT OF COMPLIANCE

Tenders were assessed for conformance with the general tender requirements, including the specification.

Pricing Schedules – Assessment of Compliance;

Tender No. 1 (from Optus) failed to supply a correct pricing schedule for categories S3 and S4. When Optus were notified of their discrepancies they elected to withdraw their tender for these parts. The following table summarises the tendered categories and compliance.

Table 3: Conformance overview

Tender	Service Categories tendered for	Service Category Compliance	Service Category Non-Compliance
Optus	S1, S2a and b, S3, S4	S1,S2a and b	S3, S4
Macquarie	S1, S2a and b, S3, S4	S1,S2a and b,S3,S4	Nil
Soul	S2a and b, S3, S4	S2a and b,S3,S4	Nil
ATI	S3, S4	S3,S4	Nil
Vodafone	S1	S1	Nil

Contract CPA/94060 – Provision of Communication Services (contd)

All tenders progressed to the next stage of evaluation for those service categories they complied with.

Mobile Coverage – Assessment of Compliance:

As Optus was the leading tender for Mobile Services, Council undertook a Shire wide evaluation of the mobile coverage provided by Optus. It was found that in general the coverage of Optus and Telstra (current service provider) was the same and there is no real advantage of the one above the other. Both had the same penetration distance in the valleys, and known blackspots from Telstra were blackspots for Optus as well.

It was found that in the Gwandalan area, Optus had better reception, but at Soldier's Beach it was Telstra. Around the Mingara area, reception through Telstra was either poor or not available although Telstra is addressing this with a new transmission tower.

It should be noted that whichever carrier is used, there will always be areas in the Shire where reception from the one carrier will be slightly better or worse than reception from the other carrier.

As a result of the investigation it was evident that neither Optus or Telstra has mobile coverage superiority in the Shire.

Mobile Services – Comments:

The mobile services tender does not include the provision of mobile handsets, hands free car kits, installations nor other hardware. It is generally less expensive to acquire such items from local distributors if devices are universal and not specific to a single provider.

Fixed Line Services - Comments

The Macquarie tender, as well as being the most cost effective, also offers the added bonus of taking over the subscription and management of the fixed line equipment whereas Optus would leave these with Telstra. This means that under the Optus offer Council would have received two bills for fixed land line services one from Optus for call charges and another from Telstra for the rental of the associated equipment. Macquarie will provide an integrated bill to Council incorporating all charges, resulting in less administrative overhead to Council.

PRICE COMPARISON

The tendered rates offer Council a potential saving of \$321,000 per annum.

Below are the final figures for each of the recommended tenders based on Council's existing call profiles. The calculated values represent the total annual cost for each tenderer using the rates tendered. The recommended tenderers represent the best value for Council.

Contract CPA/94060 – Provision of Communication Services (contd)**Table 4: Summary of costs and savings for recommended solutions inclusive of GST**

Service Type	Proposed Provider	Current Annual Cost	Estimated Annual Cost	Estimated Savings
Mobile Phone Services	Optus	\$282,698	\$107,000	\$175,000
Fixed Voice – Telephony	Macquarie	\$352,415	\$206,000	\$146,000
Fixed Voice – associated service costs (equipment rental etc)	Macquarie	\$326,000	\$326,000	Nil
		\$961,113	\$639,000	\$321,000

S1 - Mobile Services Price Comparison

For all tenderers, the costs have been applied to current call patterns.

Some tenderers provide for free Council to Council mobile calls (further referred to as "Fleet calls") for the first minutes of the call. Optus provide free Fleet calls for the first five minutes, whilst Macquarie provide free Fleet calls for the first 10 minutes. These free calls form part of the calculation.

The most advantageous compliant tender for current and all projected situations is Optus. Tender No. 1 (from Optus), providing the highest savings for mobile services, is therefore recommended for provision of mobile services and was progressed to the due diligence stage of the evaluation.

Table 5: Mobile Services pricing for each of the compliant Tenders

Tender	Estimated Annual Spend for Mobiles
Current annual spend	\$282,698
1 Optus	\$107,000
2a Macquarie option 1	\$113,000
2b Macquarie option 2	\$138,000
3 Vodafone	\$134,000

S2a and S2b - Fixed line Services Price Comparison

Current telecommunication services and pricing that follows refers to both the analogue and digital networks.

For all tenderers, the cost has been applied to current call patterns.

Contract CPA/94060 – Provision of Communication Services (contd)

Different potential cost saving technologies were taken into account in the simulations in order to ensure that the recommendations would still be valid when these cost saving technologies are applied in future.

Table 6: Fixed Line Services pricing for each of the compliant Tenders

Tender	Estimated Annual Spend for Fixed Lines
Current annual spend	\$677,936
1 Optus	\$551,000
2 Macquarie	\$532,000
4 Soul	\$664,000

The most advantageous compliant tender for current and all projected situations is Macquarie.

Tender No. 2 (from Macquarie), providing the highest savings for fixed services, is therefore recommended for provision of fixed services and was progressed to the due diligence stage of the evaluation.

Mobile Gateway Technology

The provision of free "Fleet calls" for the mobile service provides an opportunity for improved future cost savings via new "Gateway" technology attached to Council's digital telephone system (VOIP). This Gateway technology converts all calls from Council's VOIP system to mobiles into a mobile to mobile call therefore reducing costs through the free talk time and the reduced costs tendered.

The cost to implement this new Gateway technology is estimated to be \$50,000 (incl. hardware, configuration, installation and commissioning), with a maintenance component of \$5,000 per annum.

Costs have been projected where Council fully engages the mobile Gateway Technology to its digital network, see Table 7 for details, it can be seen that the extra savings are estimated to be \$81,000 per annum representing a payback period of less than 12 months. It is therefore recommended that the implementation of the Gateway Technology proceed.

Contract CPA/94060 – Provision of Communication Services (contd)**Table 7: Estimated Additional Savings due to Implementation of Gateway Technology**

Service Type	Estimated Annual Cost	Estimated Annual Cost with Gateway	Additional Saving
Mobile Phone Services	\$107,000	\$124,000 ¹	-\$17,000
Fixed Voice – Telephony	\$206,000	\$108,000	\$98,000
Fixed Voice – associated service costs (equipment rental etc)	\$326,000	\$326,000	Nil
	\$639,000	\$556,712	\$81,000

Note

1 The Mobile phone bill increases due to the increased mobile traffic.

S3 Internet Services – Tenders to be rejected

The main objective of S3 was to significantly upgrade Council's Internet services by seeking competitive pricing. Unfortunately none of the respondents provided pricing or services that were competitive with Council's existing arrangement.

As the current service has been proven to be very reliable and cost effective it is recommended to reject all offers for this service and retain the current setup for both the public library and main Council internet services as none of the tendered offers provided any benefits to Council.

S4 Wide Area Networking (WAN) Services – Decision to be deferred

Proposals were requested from tenderers to cost various solutions to provide secure access between remote Council sites such as Child Care Centres, Libraries and Treatment Plants.

The main objective of service category S4 was to significantly upgrade Council's Wide Area Network, allowing expansion of Council's VOIP system, and improving bandwidth to those sites requiring improved access now and in the future.

Various solutions were proposed by the tenderers, ranging from broadband solutions mirroring our current setup to the provision of a wireless private microwave network. Unfortunately there are significant ongoing costs for each proposed solution and the tenderers have proposed a variety of technical variations. Council is also aware that recent developments by Telstra (NextG product) and Optus (3G product) that are beyond the scope of the current tender potentially provide significantly improved data capacity. Further consideration of these issues is prudent before proceeding on this part of the tender.

Contract CPA/94060 – Provision of Communication Services (contd)

Because of the specific nature of the services and the variety of options available, a firm recommendation cannot be provided at this time. A telecommunications strategy is being developed for WAN services and any decision relating to the S4 service category should be deferred until a report on all available options can be fully assessed.

DUE DILIGENCE

Checks with Current Customers

The Councils involved in the first Group Council Tender (GCT-T1) have been contacted and those Councils who have implemented the new agreements have confirmed that projected savings have been realised.

It was further identified by these Councils that there has been no problems during implementation or change over, including the transfer of personal information from the old mobile SIM cards to the new ones.

Audit of Calculations

PABX Advisory Services identified that substantial savings could be made if the Council replaced its mobile and fixed line service provider.

To ensure that these claims were accurate Council engaged the services of an independent consultant to substantiate the claims, audit the Mobile and Fixed Line analysis and more accurately identify the current Mobile and Fixed Line usage statistics and costs. These figures were then used to simulate the costs of this usage under each Tenderer's proposed call rates.

All pricing and recommendations in this report are based on the application of tendered rates to the usage statistics for several monthly account periods.

Different potential cost saving technologies were taken into account in the simulations in order to ensure that the recommendations would still be valid when these cost saving technologies are applied in future.

As a basis for all the calculations, several of Council's actual monthly bills have been used. The audit report from the independent Consultant identified that the information and methodology used to project costs against each tendered rate were accurate and could be relied on.

Contract CPA/94060 – Provision of Communication Services (contd)

Optus

Optus considers itself to be an Australian leader in integrated telecommunications, delivering cutting edge communications, information technology and entertainment services. In 2001 SingTel became the parent company of Optus, paving the way to become a strong and strategic telecommunications player within the Asia-Pacific region. Optus is an Australian leader in integrated communications, serving more than six million customers each day. It specialises in a broad range of communication services including mobile, local, national and long distance telephony, business network services, internet and satellite services and subscription television.

Macquarie Telecom Pty Ltd

Established in 1992 (prior to Optus), Macquarie was one of the first telecommunication providers of the deregulated era. Macquarie successfully publicly listed on the Australian Stock Exchange in October 1999. Macquarie only services corporate and government customers. Macquarie operates Australia wide with offices in all states and a significant regional presence. Over one million Australians use Macquarie services at work everyday. Macquarie has also successfully expanded its operation into South East Asia and has offices in Singapore.

Macquarie Telecom is a supplier of telecommunications services for the business and government markets. It provides a range of voice, data, mobile and hosting solutions to over 3,000 corporate and government customers. Macquarie offers a broad flexible range of products covering corporate voice telephony, mobile telephony and data, fixed data networking and online infrastructure.

Macquarie has deployed a highly available national ATM network and operates a highly secure online data centre known as the Intellicentre. Business partners (Lucent, Sun, Compaq and EMC) help provide the best technology for superior secure E-business performance.

PROCESS REVIEW

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

BUDGET IMPACT

The recommendations will achieve recurrent expenditure savings of an estimated \$422,000 per annum in call costs and require a one off capital investment of \$50,000 to implement the Gateway solution and additional recurrent expenditure of \$5,000 to cover ongoing maintenance of this solution. Ongoing savings and expenses have been provided for in the 07/08 Draft Budget.

Contract CPA/94060 – Provision of Communication Services (contd)

IMPLEMENTATION TIME-FRAME

It is recommended that the agreements commence as soon as possible.

Mobile Services - Implementation and Transition:

Part of the tender defines that the successful tenderer will transfer all numbers from the existing carrier to the new carrier and to supply at no cost to Council all SIM cards in the first instance to facilitate connection of each mobile to the new carrier. Replacement of the SIM card in each mobile is to be done on site at the location of each mobile with a minimum disruption to Council and with all information contained on the old SIM card transferred to the new SIM card.

Optus has confirmed compliance with the tender requirement, and provided a proposed transition process, where following a week for preparation, they will provide on-site resources to facilitate the SIM change over. The process is expected to take one week, and a detailed plan will be developed to provide sufficient opportunity for all Councillors and staff to have their mobiles converted to the new carrier

Fixed Line Services - Implementation and Transition:

Macquarie will transfer Council's existing telephone numbers over to its network from the Telstra network. This will incur a fee from Telstra. Macquarie, however, has agreed to accept all costs associated with the transfer of Council telephone numbers across should the Macquarie bid be successful.

LOCAL CONTENT

There are no local content implications with this tender.

LOCAL GOVERNMENT PROCUREMENT

During the tender evaluation period, Council was informed that Local Government Procurement (LGP) conducted a public tender process for telecommunications services, including voice, mobile and data services. LGP is a procurement organisation established by the NSW Local Government and Shires Associations to provide a procurement service to Councils and associated organisations.

LGP has confirmed that it is in the process of conducting an Open Tender for communications services but is unable to provide definitive dates for completion of their process.

Contract CPA/94060 – Provision of Communication Services (contd)

Whilst there is the potential that the rates and services from such a tender could be slightly more competitive than currently achieved through the GCT-T2 group tender process, it is felt that the delay in time is significant and make it uneconomical for Council to wait for an outcome.

If the LGP details are available at the end of the first two year period of the recommended agreements with Optus and Macquarie they can be factored into any decision to proceed with the next two year sign on.

DEPARTMENT OF COMMERCE – STATE GOVERNMENT CONTRACT

Council is also aware that Department of Commerce is in the process of finishing off a public tender for communication services for state Government organisations. Traditionally, these contracts provide recommended service providers only, requiring Council to obtain pricing from the selected organisations. On this occasion however, Department of Commerce has informed Council that it will provide a “call charges price book”, which can be used to apply against Council’s calling patterns.

As this price book was anticipated to be available early March and the potential that rates and services from such a tender could be more competitive than currently achieved through the GCT-T2 group tender process, it was decided to wait for the results of the Department of Commerce tender.

Despite verbal assurances that the Department of Commerce tender would be extended to include councils such as Wyong this has not yet eventuated.

Several attempts have been made with the Department of Commerce to secure the date for such an arrangement. However, the Department will not provide any guarantee for a timeframe whereby the tender would be extended to include Councils.

Accordingly, it is prudent for Council to proceed with the group tender in order to realise the savings currently available through Council’s process.

Contract CPA/94060 – Provision of Communication Services (contd)

CONCLUSION

S1 *Mobile*

Tender No 1 from Optus is the most advantageous to Council for provision of mobile services, and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council.

S2 *Fixed line*

Tender No 2 from Macquarie is the most advantageous to Council for provision of fixed line services, and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council.

S3 *Internet*

Council's current Internet arrangement represents the best value-for-money for Council.

S4 *WAN*

Due to the renewed influx of opportunities becoming available lately, Council will be best served by not implementing any of the proposed solutions for the S4 tender, but rather explore the benefits of the recently commissioned secured access upgrade to Council's network combined with the many alternative solutions including new wireless data services (3G/NextG).

Gateway

Due to the significant cost benefit it is recommended that the Gateway Technology be implemented.

175 Transfer of Land at Chain Valley Bay (Attachment 1)

Location Plan



WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

175 Transfer of Land at Chain Valley Bay

F2006/02266 JMT

SUMMARY

Authority is sought to vest Lot 390 DP 31564 at Lloyd Avenue, Chain Valley Bay (the Land) in Council and to classify the Land as Operational.

RECOMMENDATION

- 1 *That Council authorise action to seek vesting of Lot 390 DP 31564, Lloyd Avenue, Chain Valley Bay in Council as Drainage Reserve pursuant to Section 50 of the Local Government Act 1993.***
- 2 *That Council publish a notice in the Government Gazette notifying that Lot 390 DP 31564 is vested in Council pursuant to Section 50 of the Local Government Act 1993.***
- 3 *That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Application to Record New Registered Proprietor.***
- 4 *That Council authorise the Mayor and the General Manager to execute all documents relating to the Application to Record New Registered Proprietor.***
- 5 *That Council propose classification of Lot 390 DP 31564 as Operational Land.***
- 6 *That the proposal be advertised in accordance with Section 34 of the Local Government Act 1993.***
- 7 *That, if no adverse submissions are received, the classification be adopted.***

BACKGROUND

Plan of Subdivision, DP 31564, was registered on 20 March 1961. Lot 390 DP 31564 was identified in the plan as Drainage Reserve.

Lot 390 DP 31564 is approximately 223 m² and is zoned 2 (a) Residential. The Land is owned by Southbridge Realty Pty Limited. The company no longer operates and Council's Debt Management Section advises that the company is untraceable.

Transfer of Land at Chain Valley Bay (contd)

Local Government Act 1993

Section 50 of the Local Government Act 1993 applies to Drainage Reserves included in subdivision plans approved by Council after 24 November 1922 and before 15 June 1964 and provides for the vesting of the land in Council for drainage purposes. During that time it was possible to identify lands for public reserve or drainage reserve pursuant to the registration of a plan but not effect the transfer.

DP 31564 was approved by Council as Subdivision No 1209 on 29 June 1960 and the Land was identified on the plan as Drainage Reserve. There is a drainage pit and drainage line located on the Land.

The Manager, Roads and Drainage, representing corporate ownership, and the Managers Future Planning and Development Assessment have no objection to the proposal.

It is proposed that Council claim the Land as Drainage Reserve. Transfer of the Land by the registered proprietor is not feasible. Vesting of the Land by published notice will rectify an historical conveyancing oversight, whereby the land was not transferred to Council at the time of subdivision.

Unpaid Rates

There are outstanding rates in respect of the Land amounting to \$1,304.73 plus interest, accumulated over seven years, and efforts to contact the owner of the Land, Southbridge Realty Pty Limited, have been unsuccessful.

The rates and charges will be written off under delegations, following vesting. Once the Land has vested in Council as Drainage Reserve the Land will not be rateable.

The Land has not been included in Council's unpaid rates sale by auction on 19 May 2007 due to the size of the parcel of land, the amount of rates owing and Council's claim to the Land as Drainage Reserve.

Classification

In accordance with the Public Land Classification Table Adopted by Council at its meeting held on 14 August 1996 land owned by Council for drainage purposes should be classified as Operational Land.

Under Section 34 of The Local Government Act 1993 Council is required to give public notice of the proposal to classify land for a period of 28 days before confirming classification. If no adverse submission is received Council's proposed land classification will be taken as adopted upon expiration of the notification period.

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176 **Prospects for the Community Hall in Chittaway Road,
Chittaway (Attachment 1)**

Aerial Photo



Background © 2005 Department of Lands Copyright © 2005 Wyong Shire Council
jpbrown Dec 2, 2005

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MAP EXTRACT
Scale 1:1693

Note: Data is not survey accurate.
Scale is representation only.

This Extract is part of the Digital Cadastral Database supplied by Department of Lands, NSW. Any persons whose legal rights may be affected, or who wish to act on any cadastral information shown on this plan should verify such information by consulting Department of Lands, Bathurst before acting.



P. 1286
Current Navigator

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

**176 Prospects for the Community Hall in Chittaway Road,
Chittaway**

F2006/00917 PF

SUMMARY

Reporting back to Council on the outcome of discussions regarding Council's previous resolution.

RECOMMENDATION

- 1 *That Council take no further action to secure the fulltime letting of the Community Hall in Chittaway Road.***
- 2 *That Council continue with the existing weekly hire arrangements of the hall to the Hellenic Community of the Central Coast Inc.***

BACKGROUND

Council at its meeting held on 14 December 2005 resolved:

- "1 That Council permit the full time letting of the Chittaway Road Hall under lease for a period of up to 5 years and that first right be granted to the current user, the Hellenic Community of the Central Coast Inc.*
- 2 That a lease fee be established by the General Manager reflecting full cost recovery of the property.*
- 3 That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the Lease between the Wyong Shire Council and the Hellenic Community of the Central Coast Inc.*
- 4 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between the Wyong Shire Council and the Hellenic Community of the Central Coast Inc."*

Prospects for the Community Hall in Chittaway Road, Chittaway (contd)

In accordance with Council's resolution rent was determined at \$6,200.00 per annum. That amount reflected Council's costs of retaining the building and includes depreciation \$2,534, insurance \$510, maintenance \$2,522, and security \$634.

Council would also expect the lessee to pay all charges associated with the leased premises including electricity, gas, telephone, water consumption, rates etc. All fees payable under the lease including rent are net of GST and GST would be payable by the lessee.

The Hellenic Community rejected a lease of the premises on the basis that the proposed rent was not affordable to it as a community group made up of many retired local residents.

Council reviewed the amount of rent it would seek on the basis that depreciation was a non-cash item and accordingly advised the Hellenic Community, Council is prepared to accept a concessional rate that reflects the cash costs of maintaining the building being \$3,665 per annum.

The Hellenic Community suggested it could afford rental of around \$1,100 per annum. That amount is equivalent to the amount it currently pays for the premises to Council under a weekly hall hire arrangement.

The Hellenic Community has not agreed to a lease on the basis of the concessional rent offered but has agreed to meet any minor maintenance costs for the facility.

Recommendation

Given that Council has a stable existing tenant who is satisfied with the current amount of rental payable under our existing standard weekly hire agreement, it is recommended that no further action be pursued on the matter.

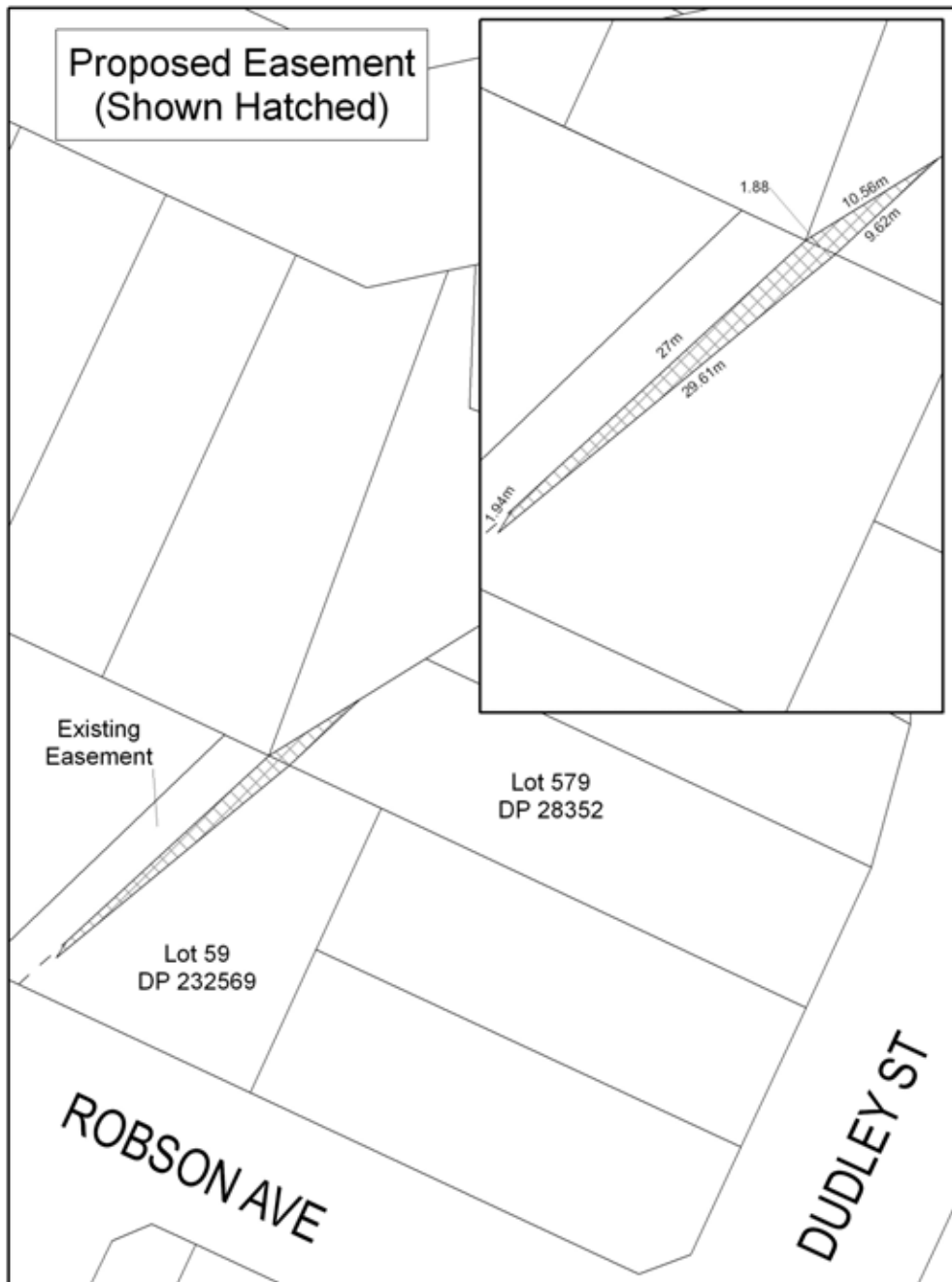
Attachment 1

Aerial Photo (1 page)

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177 Acquisition of Easement for Drainage at Gorokan
(Attachment 1)

Location Plan



WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

177 Acquisition of Easement for Drainage at Gorokan

F2006/01487, F2006/01486 JMT

SUMMARY

Approval is sought to acquire an easement for drainage over Lot 59 DP 232569, 57 Robson Avenue, Gorokan and Lot 579 DP 28352, 62 Dudley Street, Gorokan.

RECOMMENDATION

- 1 That Council acquire an easement for drainage of variable width over Lot 59 DP 232569 and Lot 579 DP 28352.**
- 2 That Council authorise the payment of compensation, if necessary, for the acquisition of the easement in Item 1 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.**
- 3 That Council proceed to compulsorily acquire the easement in the event that negotiations with the property owner cannot be satisfactorily resolved.**
- 4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Transfer and/or Plan and to any necessary applications to the Department of Local Government for the approval of the Minister and the Governor in order to proceed with the compulsory acquisition.**
- 5 That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer and/or Plan and all documents relating to the applications to the Department of Local Government.**

BACKGROUND

Council reconstructed the open drain wall of the channel located on Lot 59 DP 232569, 57 Robson Avenue, Gorokan and Lot 579 DP 28352, 62 Dudley Street, Gorokan (the Land). The work was completed in June 2005.

The drainage works widened the area required for drainage and it will be necessary to acquire an additional easement of variable width over the Land. This will cover Council's requirements in respect to the operation and maintenance of the installation.

Acquisition of Easement for Drainage at Gorokan (contd)

Lot 59 DP 232569 is 714.5 m² and zoned 2 (a) Residential.
Lot 579 DP 28352 is 822 m² and zoned 2 (a) Residential.

It is not considered that the work has a major effect on the amenity of the land. The work was done at the request of the owner of Lot 59 to improve the stability of the existing concrete channel. The creation of an easement will extend the existing easement over Lot 59 to include part of the channel which is located outside the existing easement.

The respective owners of the land have indicated a willingness to grant the associated easements without claim for compensation. Associated costs have been allocated from the Roads Rehabilitation Budget.

Attachment 1

Location Plan (1 page)

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

178 Position of General Manager

F2006/01686 RS:SM

SUMMARY

Authority to affix the Common Seal of Wyong Shire Council to the General Manager's contract of employment.

RECOMMENDATION

- 1 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the General Manager's contract of employment.**
- 2 That the Council authorise the Mayor and one Councillor to execute all documents relating to the General Manager's contract of employment.**

BACKGROUND

At the Ordinary Meeting of Council held on 24 January 2007, Council resolved:

"That the report be received and that Kerry Yates be appointed as General Manager in accordance with the resolution of the confidential session."

Mr Yates' new contract of employment has been prepared and requires the Common Seal of Wyong Shire Council affixed.

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

179 Revised Code of Meeting Practice

F2004/06502 CTB

SUMMARY

Reporting proposed amendments to Council's Code of Meeting Practice, as required by clause 3 of the current Code of Meeting Practice and section 361 of the Local Government Act, 1993.

All proposed amendments to the Code of Meeting Practice are underlined on the enclosure (Revised Code of Meeting Practice).

RECOMMENDATION

- 1** *That Council adopt in principle the Revised Code of Meeting Practice and place it on public exhibition for 28 days in order to seek public comment, as required by section 361(2) and 361(3) of the Local Government Act, 1993.*
- 2** *That Council receive public submissions on the Revised Code Of Meeting Practice for the mandatory 42 days, as required by section 361(4) of the Local Government Act, 1993.*
- 3** *That a further report be brought back to Council following the exhibition.*

PROPOSED AMENDMENTS

The following significant amendments/additions are now proposed to the current Code of Meeting Practice:

Proposed Mandatory Changes

Required by the Local Government Act, 1993 and the Local Government (General) Regulation, 2005.

- * Clause 8(1) of the old Code of Meeting Practice has been removed and replaced with the old clause 8(2). This is now clause 8(1) of the Revised Code of Meeting Practice. The only amendment to the old clause 8(2) is the change from within seven (7) days to 14 days. The Code of Meeting Practice will now be in line with the Local Government Act. The Code of Meeting Practice is not to be inconsistent with the Local Government Act or the Local Government (General) Regulation. Some additional wording has also been added to clause 8 of the Revised Code of Meeting Practice. This wording has been added in order to provide more guidance and information to Councillors.

Revised Code of Meeting Practice (contd)

Proposed Recommended Changes

Recommended by the Department of Local Government (DLG) Guidelines

- * A definition has been included for 'due notice'. The definition for due notice under the Local Government Act is provided as well as the definition for due notice used in the Revised Code of Meeting Practice. The definition is in clause 4 of the Revised Code of Meeting Practice.
- * The clause on Notice of Censure (old clause 25) has been removed from the Revised Code of Meeting Practice. This is now redundant. The Code of Conduct Committee is now the appropriate disciplinary forum for Councillors.
- * Under clause 39 - Rescinding or Altering Resolutions, the following words are proposed to be added "In order to make sure that Council's intention is clear, it is considered best practice to expressly state that a later resolution is to replace an earlier one. In this way the public, Council staff and subsequent Councillors can understand and act with certainty on Council decisions".

This is important as the courts have held that it is not always essential that a Council expressly alter or rescind a resolution prior to passing a later resolution which is inconsistent or in conflict with the earlier resolution. In other words, alteration or rescission can be implied. (Everall v Ku-ring-gai Municipal Council (1991) 72 LGRA 369).

Other Suggested Changes Currently Included in the Revised Code of Meeting Practice

- * The general order of business (clause 22) has been amended. Censure Motions have been removed and Committee Reports have been transferred to (p).
- * Clause 60 Audio Recording of Council and Committee Meetings by Council has been added to the Revised Code of Meeting Practice.

A resolution passed by Council during a Council Meeting is able to be altered or rescinded during that Council Meeting if the Code of Meeting Practice allows this. It is proposed that a minimum period of **XX** minutes be set in Council's Code of Meeting Practice prior to the consideration of a rescission motion on a resolution passed at the same Council Meeting. Councillors need to decide if this is warranted in the Revised Code of Meeting Practice and decide on the minimum period of time required by Councillors in order to consider the rescission motion.

Clause 39 of the Revised Code of Meeting Practice contains the wording above.

Revised Code of Meeting Practice (contd)

Other Suggested Changes Not Currently Included in the Revised Code of Meeting Practice (these suggested changes will need to be discussed by Councillors at the Ordinary Council Meeting)

- * It has been suggested that there should not be any speakers allowed on any Notices of Motion. Councillors need to decide if this is warranted in the Revised Code of Meeting Practice. If Council is of a mind to include this provision, then the following clause will need to be inserted into the Revised Code of Meeting Practice at Clause 26 (8):

- ***No Speakers***

There are to be no speakers on any Notices of Motion discussed at Council Meetings.

- * Another suggested change is to set time limits for each speaker. It was suggested that a time limit be set similar to that used at public forums. It is considered that any time limit should not be less than 30 minutes.

If Council is of a mind to include this provision, then the following clause will need to be inserted into the Revised Code of Meeting Practice at Clause 33:

~ *Time Limits for Speakers*

A time limit of **XX** minutes is set by this Code of Meeting Practice for speakers to talk and for any questions to the speakers. The questions to the speakers are to be shared by Councillors in order to ensure equity. Each Councillor is allowed one question until all of the Councillors questions have been exhausted or the time expires.

The Chairperson has the ultimate discretion to decide on any issues regarding speakers and questions.

- * A final suggestion was for Councillor Briefings to have a quorum or a minimum number of Councillors required to attend the briefings in order for them to go ahead. The quorum could be set at six, the same number required for Council Meetings, although this may be excessive for a briefing. An alternative would be to find out how many Councillors are intending to attend the Council Meeting on the two Fridays preceding the Meeting.

A quorum for the briefing would be based on the number of Councillors who have indicated that they will attend the Council Meeting eg if 8 Councillors indicate that they will be attending the Council Meeting then the quorum for the briefing would be 5 Councillors (half of 8 plus 1).

Revised Code of Meeting Practice (contd)

An insufficient number of Councillors attending a briefing results in the potential waste of staff resources and the need to reschedule or cancel the briefing and Council appearing as unprofessional to organisations scheduled to be present at the briefing.

If Council is of a mind to do this then it should be included in the procedures for briefings rather than form part of the formal Code of Meeting Practice.

The other proposed changes to the current Code of Meeting Practice not detailed in the significant amendments section of this report are underlined in the enclosure to this report.

Clarification was sought by the Councillors at the briefing session on whether there was a 'right of reply' on an amendment to a motion. Clause 33(1) of the Code of Meeting Practice confirms this. "A Councillor who, during debate at a meeting of Council, moves an original motion **has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it**, as well as the right to speak on any such amendment".

STATUTORY IMPLICATIONS

Policy and Procedure Implications

Council currently has a Code of Meeting Practice. The Revised Code of Meeting Practice will replace the current version. The Revised Code of Meeting Practice will be in line with the Local Government Act, 1993, the Local Government (General) Regulation, 2005 and the guidelines produced by the Department of Local Government.

Legal Implications

Section 361 of the Local Government Act, 1993 requires Council's in NSW to prepare a draft (revised) Code of Meeting Practice, give public notice of the draft (revised) Code, advertise and place the draft (revised) Code on public exhibition for at least 28 days and allow 42 days for the public to provide submissions on the draft (revised) Code.

Section 363 of the Local Government Act, 1993 requires a Council to amend a current Code of Meeting Practice by adopting another Code after following the requirements of the Local Government Act, 1993.

Revised Code of Meeting Practice (contd)

CONCLUSION

Council is required to adopt a Code of Meeting Practice which is in accordance with the Local Government Act, 1993 and the Local Government (General) Regulation, 2005.

The Revised Code of Meeting Practice enclosure complies with this requirement.

Enclosure

Revised Code of Meeting Practice

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

180 Proposed Councillors' Community Improvement Grants

F2006/00788 SG

SUMMARY

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

RECOMMENDATION

- 1** *That an amount of \$12,600 be allocated from the 2006/2007 Councillors' Community Improvement Grants as outlined in Attachment 1.*
- 2** *That the amount of \$350 allocated to Toukley Fun N Fitness Group at the 28 March 2007 Ordinary Meeting of Council for public liability insurance, be reallocated towards new equipment for the group.*

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

Correspondence has been received from Toukley Fun N Fitness Group requesting a change to the purpose of allocation resolved at 28 March 2007 Ordinary Meeting of Council. Councillors Best and Welham have approved the funds to be used for new equipment for the group.

Attachment 1 **Councillors' Community Improvement Grants 2006/2007**
(2 pages)

Proposed Councillors' Community Improvement Grants (Attachment 1)**Proposed Councillors' Community Improvement Grants 2006/2007**

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Forster	Graham	Pavier	Rose	Stevens	Stewart	Veugen	Welham	SUB TOTAL
Allocation 01/07/2006 - 30/06/2007		15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	150,000
Proposed expenditure up to and including Ordinary Council Meeting of 11/04/2007		14,250	5,950	8,725	7,100	10,050	11,678	4,800	6,265	9,450	10,419	88,687
Available allocation as at 11/04/07		750	9,050	6,275	7,900	4,950	3,322	10,200	8,735	5,550	4,581	61,313
9 May 2007												
Asbestos Disease Foundation	Assist with campaign to community of Wyong Shire about the dangers and safe handling of Asbestos	250		500								750
Central Coast Malibu Board Riders	Assist with "Magoo Charity Longboard Classic" 28-29 April with fundraising for Central Coast Cancer Care	250		500							200	950
Central Coast Multiple Sclerosis and Handicapped Group Inc	Assist with costs associated with rust damage repair work carried out on group's buses				500							500
Country Women's Association Toukley	Assist with Building Maintenance										500	500
Gwandalan Lions Club	To assist with the expenditure involved in staging the Gwandalan Spring Festival		200								500	700
Spirited Communities	Assist with the cost of hosting a neighbourhood event aimed at connecting families with young children to local services and each other	50										50
The Entrance Amateur Swimming Club Inc	Assist with replacement of equipment for the club			500	500				300			1,300
The Entrance Girl Guides	Assist with rental of premises for meetings				500							500
The Entrance Junior Rugby League Football Club	Assist with purchasing of team training footballs for mini league, mod league and international league balls				1,000							1,000
The Entrance Rugby Club	Purchase canopy awning and kitchen equipment				1,000	3,000						4,000

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

**Proposed Councillors' Community Improvement Grants (Attachment 1)
(contd)**

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Forster	Graham	Pavier	Rose	Stevens	Stewart	Veugen	Welham	SUB TOTAL
Tuggerah Lakes Memorial (Pistol) Club	To assist in funding improvements of kitchen facilities, to bring up to standard required for food preparation		1,000						300			1,300
Tuggerah Lakes Primary Sports Assoc	Assist to purchase two computer programs "Swim Meet" and "Athletics Meet" to track all students and their entries in different sports			250	500				300			1,050
Total Proposed Allocations for 09/05/2007		550	1,200	1,750	4,000	3,000	0	0	900	0	1,200	12,600
Total Accumulated Allocations as at 09/05/2007		14,800	7,150	10,475	11,100	13,050	11,678	4,800	7,165	9,450	11,619	101,287
Balance Uncommitted as at 09/05/2007		200	7,850	4,525	3,900	1,950	3,322	10,200	7,835	5,550	3,381	48,713

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

**181 Anti Social Behaviour in the Vicinity of Blue Bell Park,
Berkeley Vale**

F2004/00694 IR:LM

SUMMARY

Reporting on survey of residents as to level and frequency of anti-social behaviour in this area and possible solutions to remedy the problem.

RECOMMENDATION

That Council install lighting in Blue Bell Park in the 2007/08 financial year and that funding for this work be sourced from the Sportsfield Floodlight Upgrading account.

BACKGROUND

At its meeting held on 11 October 2006, Council resolved the following:

“Council conduct a survey of residents (as far away as 20 houses in each direction of the park) including the shopkeepers opposite for their views on:-

- 1 a *What anti social behaviour has and does occur and at what times?*
 b *Their views to increasing the lighting in the park.*
- 2 *That staff report to Council on what community social services exist to engage the youth, in a non confronting manner, who use the park at night time.*
- 3 *That as part of the report to Council, that staff outline what costs and options exist to provide lighting in the park and if that lighting should be timed etc.”*

Council staff conducted a survey of residents and shopkeepers located in the vicinity of Blue Bell Park (location plan is included). The survey was conducted following liaison with relevant external agencies, site visits, meetings with residents and research into anti-social behaviour history in this area of Berkeley Vale.

Survey Results

Written questions were handed to a total of 60 participants over the period 22 February 2007 to 23 February 2007 and additional face to face interviews were conducted with 166 participants on 26 March 2007 to 27 March 2007. Survey recipients included all dwellings in the immediate vicinity and all shopkeepers/business owners opposite the reserve.

Anti Social Behaviour in the Vicinity of Blue Bell Park, Berkeley Vale (contd)

Where face to face contact was not possible with owner/occupiers, copies of the survey were left for completion and returned to Council. Of the 226 surveys distributed, 115 were answered/returned, resulting in a relatively high response rate of 51%. However, not all questions were completed which explains why the following responses do not add up to 115.

In response to the question "***Have you seen any anti-social behaviour around the area? If yes, what type and when?***" The following answers were received.

Yes - 75 responses
No - 17 responses

Details of the anti-social behaviour are listed below:

- * Cars doing burnouts and speeding
- * Stolen/damaged vehicles
- * Drunken behaviour
- * Graffiti
- * Fighting in shopping precinct
- * Under age drinking
- * Offensive language
- * Private gardens destroyed
- * Litter bins burnt

In response to the question "***Do you think putting lights in Blue Bell Park would be an advantage?***" The following answers were received:

Yes - 63 responses
No - 18 responses

Of those respondents that answered yes there was a majority view that park lighting would reduce the opportunity for anti-social activities to occur. It was also stated that lighting would be an advantage when Police and Rangers are called out as they could readily see what was going on in the entire park.

The respondents that answered in the negative felt that lighting would invite more anti-social behaviour and encourage additional young people to congregate in the area. There was also a view expressed that the lights themselves would become the target of vandalism.

Anti Social Behaviour in the Vicinity of Blue Bell Park, Berkeley Vale (contd)

Over the last two years there has been a number of vandal related attacks to infrastructure in Blue Bell Park and in other Berkeley Vale foreshore reserves . In Blue Bell Park this has included graffiti on signage and the amenities building, picnic table destroyed and internal damage to amenities building fixtures.

Youth Engagement Opportunities

Available social services to engage the young people in this area are somewhat limited with respect to the delivery of opportunities and/or programs.

The Berkeley Neighbourhood Centre, located in Heather Avenue opposite Ted Doyle Oval, operates a Neighbourhood Service funded by the Department of Community Services (DOCS). The Centre applied for funding under Council's 2006/07 Community Benefits Scheme to research its service delivery effectiveness, however the application was deemed ineligible against stated criteria. The Community Benefits Scheme assessment panel recommended that the "In Sync" program would be better suited to a State or Federal government funding stream.

The Benevolent Society delivers a family development program in the Chittaway area known as "Out of the Box". This scheme is focussed on building social capital through the engagement of residents at music and sport related special events. To date this program is resulting in positive outcomes in the community.

Berkeley Vale Church of Christ was contacted in order to determine whether this organisation provided any youth engagement programs however Pastor Newton advised that no such programs are currently offered.

Council staff met with the representatives from the Local Area Command regarding anti-social behaviour in foreshore reserves. Police have informed that they are aware of events in the area and have urged residents to report all instances to ensure occurrences are logged.

Lighting

Council does provide lighting to a number of its passive reserves and it has proved effective in reducing anti-social behaviour. There have been instances however where lighting has actually increased anti-social behaviour at night time, for example at Jenny Dixon Reserve, Norah Head. When reserves are lit in locations where passive surveillance by neighbouring residential areas is limited young people can be drawn to a park and engage in anti-social activities. Lighting a particular reserve can also move the anti-social behaviour problem from one location to another.

Anti Social Behaviour in the Vicinity of Blue Bell Park, Berkeley Vale (contd)

In the case of Blue Bell Park, the reserve is located in a built-up area with good passive surveillance from surrounding dwellings and shops (during business hours). There is however poor surveillance of the area from the cycleway or eastern end of the reserve. This being the case, there is a possibility that lighting the park may in fact move the anti-social behaviour to the eastern end of the reserve or to other foreshore areas north and south of Blue Bell Park. There is already a history of anti-social behaviour at Lions Park which is located 300 metres north of Blue Bell Park. In order to address the possibility of moving the anti-social behaviour to another location there would be an advantage in scheduling joint operations after hours with NSW Police and Council Rangers in order to reduce anti-social behaviour.

The proximity of the reserve to adjacent dwellings would require a lighting design that minimises light spill onto these properties. The likely cost for this work is estimated at \$12,000. Funds would need to be sourced from the Sportsfield Lighting Upgrade account in the 2007/08 Management Plan. This would compromise the completion of planned lighting upgrade works at Don Small and Halekulani Ovals in 2007/08. These sportsfield lighting works have already been deferred from the 2006/07 works program due to delays in availability of external dollar for dollar funding. These works would therefore extend into the following 2008/2009 financial year.

Enclosure

Location Plan of Area Surveyed

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

182 WaterPlan 2050 – Water and Sewerage

F2006/02278 GC:GC

SUMMARY

Placement of preferred WaterPlan 2050 strategy on public exhibition.

RECOMMENDATION

That the recommended WaterPlan 2050 strategy be adopted for the purpose of exhibition and placed on public exhibition for a period of six (6) weeks.

BACKGROUND

WaterPlan 2050 is a long term strategic plan for the development of the town water supply for the Central Coast. The preliminary working draft of WaterPlan 2050 was placed on public exhibition between 14 December 2006 and 16 February 2007 and received 53 submissions.

A number of activities have been undertaken since the preliminary working draft was placed on exhibition. The key activities include:-

- * Refinement of technical analysis
- * Summary of the Technical Advisory Group (TAG) workshops
- * Assessment of the community submissions to exhibition of the preliminary draft WaterPlan 2050 document.

A joint council workshop (Gosford City Council and Wyong Shire Council) was held on 17 April 2007 to consider a recommended WaterPlan 2050 strategy to secure a long term sustainable water supply for the Central Coast. Background information for the workshop was provided to all invited participants prior to the workshop.

The additional water source options addressed in the preliminary working draft of WaterPlan 2050 and the workshop were:-

WaterPlan 2050 – Water and Sewerage (contd)

Option	Description
1	Regional Tillegra dam
2	Upper Wyong River to Mangrove Creek dam transfer system
3	Lower Mangrove Creek weir to Mangrove Creek dam transfer system
4	Second lower Wyong Off-river Storage (Toobys Creek dam)
5	MacDonald River to Mangrove Creek dam transfer system
6	Lower Wyong River to Mangrove Creek dam transfer system
7	20 ML/d permanent desalination plant at Toukley.
8	Large scale retrofit of rainwater tanks on existing houses
9	Environmental flow substitution
10	Indirect potable reuse

Discussion

It is proposed that any future strategy needs to include a range of demand management initiatives including items such as:-

- * Water efficient new homes, through BASIX building requirements,
- * Water efficiency labelling scheme (WELS) for appliances,
- * Progressive uptake of water efficient appliances
- * Continuation of a Residential Refit Program
- * Continuation of community education and changes in water usage behaviour,
- * Water efficiency requirements for new developments,
- * Continuation of management plans for large water users (greater than 3.5ML/year)
- * Continuation of rebates for rainwater tanks
- * Implementation of cost effective local effluent reuse eg local power stations
- * Implementation of cost effective local Stormwater harvesting
- * Continuation of an active leakage detection and repair program,
- * Implementation of a water pressure reduction and management program,

WaterPlan 2050 – Water and Sewerage (contd)

However, these demand management initiatives by themselves will not deliver a secure long term water supply system for the Central Coast. Therefore, additional water sources are required over the WaterPlan 2050 planning horizon.

It is recommended that a number of surface water options identified in the preliminary draft document are not considered further at this stage. These options have a range of significant limitations including; significant environmental issues, risks to obtaining approvals, construction access and yield limitations. On balance these options are less favourable than the most attractive surface water option being the Lower Wyong River to Mangrove Creek Dam transfer system (Option 6).

The options not to be considered further at this stage are:-

Option	Description	Key Limitations
Option 2	Upper Wyong River to Mangrove Creek Dam transfer system	Potential for significant impacts on streamflows between Bunning Creek & Lower Wyong River Weir and Option 6 enables additional water from the Wyong River catchment below Bunning Creek and Ourimbah Creek to be harvested and stored in Mangrove Creek Dam.
Option 3	Lower Mangrove Creek to Mangrove Creek Dam transfer system	Provides lowest Yield for any stream based option. Potential for significant environment impact and construction difficulties along the Mangrove Creek Valley associated with construction of a pipeline & access road (17.5km in length).
Option 4	Tooby's Creek off stream storage	Potential for significant aquatic and terrestrial environmental impacts associated with new dam.
Option 5	Macdonald River to Mangrove Creek Dam transfer system	Potential for significant aquatic impact associated with a new weir. Potential for significant terrestrial environmental impacts associated with access road and pipeline within Yengo National Park.

Consideration of the merits, limitations and risks associated with sourcing additional water from; surface water, desalination, rainwater tanks, environmental flow substitution, indirect potable reuse and the proposed Tillegra Dam has been undertaken. Key issues included; yields, sensitivity to climate change, drought recovery times, sustainability (social, economic and environmental), costs and regulatory requirements.

The long term strategy needs to be flexible and able to respond to changing circumstances such as; climate change, population growth rates, regulatory changes and technological advances. It is proposed that a rigorous monitoring and evaluation program be adopted to enable the strategy to be adjusted as necessary over time.

WaterPlan 2050 – Water and Sewerage (contd)

It is proposed that a toolbox approach be adopted where a range of strategy elements are developed that can be applied as required to achieve the strategy objectives. Appropriate timing and sequencing of the elements will be required to meet current needs and to provide the greatest flexibility for the future.

Considering the configuration of the existing water supply system, current understanding of the local hydrology, impacts of the drought on the current system, technical attributes and regulatory requirements, it is considered that the most appropriate next enhancement to the water supply is the provision of a Lower Wyong River to Mangrove Creek Dam Transfer System incorporating a link between Mardi Dam and the Bunning Creek tunnel together with a new Wyong River pump station and transfer system to Mardi Dam.

Indirect potable reuse and desalination options are considered to offer significant future potential for non climate dependent water sources should climate change or long term demands necessitate additional water in the future. The relative high energy requirements and operating costs of desalination do not warrant its implementation at this point when other lower cost and energy intensive options are available. Similarly, though indirect potable reuse offers significant future potential as a water source, the lack of guidelines and regulatory framework does not warrant implementation at this point when alternative options are available. It is considered that both these options do however warrant inclusion in the long term strategy as future possible water sources given the potential for technological changes and the development of an appropriate regulatory framework.

It is considered that the long term water supply strategy could incorporate the proposed Tillegra Dam on the Williams River in the event that the Dam is built. Considering the current need to undertake activities to accelerate drought recovery on the Central Coast in the near future and the time necessary to commission Tillegra Dam, there is a need to implement the next enhancement of the Central Coast water supply in a shorter timeframe than is possible with the proposed Tillegra Dam. Tillegra Dam, should it be built, could provide a significant buffer against climate change and a greater level of drought security and as such it is recommended that the possible yields and cost options should be investigated further. It would be preferable to enter into a legal agreement with Hunter Water in the short term in order to preserve the right to the water from Tillegra Dam in the longer term at an agreed price.

Recommended WaterPlan 2050 Strategy

The recommended strategy is based on managing demands on the water supply system through improved per capita efficiency together with improving the yield of the system and providing a flexible tool box of additional water sources should they be required in the future.

The following key elements are recommended to form the preferred WaterPlan 2050 water supply strategy for the Central Coast:

WaterPlan 2050 – Water and Sewerage (contd)

- * Building a link between Mardi Dam and Mangrove Creek Dam to improve the harvesting and storage of water from the Wyong River and Ourimbah Creek catchments. This would overcome the current limitation on storing available water when Mardi Dam is full.
- * Building a new pump station at the Lower Wyong River weir to improve the harvesting of water from Wyong River through an ability to transfer greater volumes to Mardi dam during high flows.
- * Continue to implement demand management activities to reduce water wastage around local homes, businesses and organisations to deliver a permanent change in how people use and value water.
- * Support the voluntary retrofitting of rainwater tanks to existing dwellings by continuing to offer rebates. It is noted that program to install tanks in all existing dwellings would cost in excess of \$200 million. The lower yield and cost per kilolitre does not make such a large scale program viable but the existing program is worth continuing.
- * Continue to offer rebates for installing water efficient devices to support improved efficiency in water use.
- * Further implementation of cost effective stormwater harvesting projects and recycling projects for non-drinking purposes.
- * Provision of enhanced environmental flows.
- * Further investigating the use of highly treated recycled water as a possible future water source. This water could be used to provide environmental flows or as a source for the water supply should additional supplies be required in the future.
- * Installation of gates on Mangrove Creek Dam spillway to improve the capacity of the storage following the provision of a link between Mardi Dam and Mangrove Creek Dam.
- * Further investigate accessing water from the Hunter region's proposed Tillegra Dam provided suitable cost arrangements can be agreed to.
- * Retaining the option of permanent desalination as a possible future water source should additional supplies be required.

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

General Manager's Report

183 Appointment of Independent Members of the Governance Committee

F2004/06646 JS:JS

SUMMARY

The Governance Committee Charter adopted by Council at its meeting on 22 November 2006 requires the appointment of two independent members. The three councillor positions on the Committee also need to be formally elected by Council.

The selection process for the independents has now been completed by the evaluation panel. Appointment of the two preferred applicants is now submitted to Council for approval.

RECOMMENDATION

- 1 *That Messrs David Holmes and Bruce Turner be appointed as independent members of the Governance Committee of Wyong Shire Council at a remuneration of \$5,000 per annum with effect from 1 July 2007 until the end of the term of this Council.***

- 2 *That three Councillors be elected to fill the Councillor positions on the Governance Committee of Wyong Shire Council.***

BACKGROUND

Council decided in November 2006 to further strengthen its governance processes by upgrading its Audit Committee Charter to reflect current better practice. The reforms included emphasising the need to focus on key issues and risks and the appointment of two suitably qualified independent members to the Committee to replace staff members of the committee.

Expressions of Interest for the independent members were called for in December 2006 with eleven candidates submitting applications. The applicants were all of a high calibre and from both the public and private sector. A preliminary evaluation of the candidates narrowed the very strong field to a short-list of four candidates. These were then formally considered by the evaluation panel consisting of the Mayor, Councillor Rose and the General Manager.

The appointment of the independents should be made for the remaining term of the Council and be effective from 1 July 2007 to coincide with the commencement of the new financial year.

Appointment of independent Members of the Governance Committee (contd)

The applicants recommended by the evaluation panel are:

Mr David Holmes

Mr Holmes is a retired partner of the chartered accountancy firm, Ernst and Young. He has had extensive experience in international financial and accounting services and is a recognised speaker on corporate governance and acquisition due diligence. His initial professional background was in information technology and banking audit and he moved into the corporate finance area of Ernst and Young in 1985.

He has the key experience of providing advice to executive management in a wide range of corporate clients and government entities across a diverse range of industries including financial services, telecommunications and technology, health, building and construction and services.

He is very well qualified holding an economics degree from Sydney University, an MBA and membership at fellow level with The Institute of Chartered Accountants and The Australian Institute of Company Directors.

Mr Holmes has no conflicts of interest which may cause any independence issues. He has a keen interest in local government and is a regular participant in the North Sydney Precinct Program as a resident of that area. He also has interests in the Hunter area.

Mr Bruce Turner

Mr Turner is a senior audit and risk executive with extensive experience in audit, governance, risk management, internal control, business continuity management, corruption prevention, fraud investigations, compliance and probity. He has a highly regarded track record in establishing well-founded strategies to create world class internal audit activities that consistently add value to the business. He has held senior audit executive roles spread across a diverse range of sectors including banking, manufacturing, transport and energy. Recently he has been appointed as the chief audit executive at the Australian Taxation Office.

He holds a range of professional qualifications and memberships including The Institute of Internal Auditors and The Australian Institute of Company Directors.

Mr Turner has no conflicts of interest which may cause any independence issues. He is impressed with the leadership Council is showing in improving the level of governance in local government and considers that he can make a positive contribution to that process through his experience and standing in the audit community.

Appointment of independent Members of the Governance Committee (contd)

REMUNERATION

The Governance Committee Charter states that "Remuneration will be paid to the external independent members of the Committee on the basis of an annual fee paid in quarterly instalments. The quantum on the fee will be approved by Council."

The number of independent members of audit committees in New South Wales local government is extremely low. In Victoria, where audit committees are required under legislation, information provided by the Victorian Audit Office and several larger councils, indicates that the level of annual remuneration per independent member varies between \$4,000 and \$6,000 pa.

It is recommended that the two independent members each be paid at the rate of \$5,000 pa. This is to cover preparation and attendance at the five scheduled meetings, informal contact between meetings and any incidental costs incurred, including travelling costs to attend scheduled meetings.

COUNCILLOR COMMITTEE MEMBERS

The members of the previous Audit Committee were the Mayor, Councillor Rose, Councillor Stewart, Councillor Stevens, the General Manager and the Internal Auditor. As the Governance Committee Charter only allows for Councillors and independent members to be on the Committee both the General Manager and Internal Auditor will be vacating their positions.

Council now needs to elect three Councillors to serve on the Committee with the two independents and the Mayor. It is understood that Councillor Rose, Councillor Stewart and Councillor Stevens have expressed interest in continuing on the committee.

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WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Board Report

184 Gosford and Wyong Councils' Water Authority Board Meeting

F2004/06808

SUMMARY

Minutes of the Gosford and Wyong Councils' Water Authority Board meeting held on 18 April 2007.

RECOMMENDATION

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

A meeting of Gosford and Wyong Councils' Water Authority Board was held on 18 April 2007. The minutes of that meeting are enclosed.

Enclosure

Minutes of the Gosford and Wyong Councils Water Authority Board meeting held on 18 April 2007

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Panel Report

185 Community Benefit Grants Panel – 11 April 2007

F2005/01881 MW

SUMMARY

Council's Community Benefit Grants Panel met on 11 April 2007 to consider applications for funding under the Community Benefit Grants program. A copy of the minutes are attached.

RECOMMENDATION

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

Attachment 1***Minutes of the Community Benefit Grants Panel meeting held on 11 April 2007 (4 pages)*****Attachment 2*****2006/2007 Budget – Community Benefit Grants (1 page)***

9 May 2007
To the Ordinary Meeting of Council

Panel Report

Community Benefit Grants Panel – 11 April 2007 (Attachment 1)

WYONG SHIRE COUNCIL

**MINUTES OF THE
WYONG SHIRE COMMUNITY BENEFIT GRANTS PANEL
HELD IN WILFRED BARRETT ROOM AND TIM FARRELL ROOM,
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 11 APRIL 2007
COMMENCING AT 9:36AM**

PRESENT

Councillor R Graham (Chairman)
Councillor R Stewart
Councillor R Stevens
Councillor W Welham
Manager Customer and Community Services - Judy Jaeger

APOLOGIES

Nil

IN ATTENDANCE

Community Development Manager – Julie Vaughan
Administration Officer – Maree Wheelahan
Administration Officer - Kylie Bullock (arrived 9.37 am)
Supervisor, Governance and Councillor Services - Evelyn Duncan (arrived 9.38 am)

9 May 2007
To the Ordinary Meeting of Council

Panel Report

Community Benefit Grants Panel – 11 April 2007 (Attachment 1) (contd)

11 April 2007
To the Community Benefit Grants Panel

CBG04 Disclosure of Pecuniary Interest

F2004/06507

DIRECTOR'S RECOMMENDATION

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

COUNCILLOR WELHAM DECLARED AN INSIGNIFICANT CONFLICT OF INTEREST IN RELATION TO THE SAN REMO COMMUNITY ENVIRONMENT PROJECT INC APPLICATION FOR THE REASON THAT HE WAS THE MAYOR'S REPRESENTATIVE AT THE COMMUNITY GARDEN AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

PANEL RECOMMENDATION

That the report be received and the advice of the disclosure noted

11 April 2007
To the Community Benefit Grants Panel

CBG05 Minutes of Ordinary Meeting 13 December 2006 – Allocation of Funding

F2004/06570

SUMMARY

A report containing the minutes of the Community Benefit Grants Panel meeting held 21 November 2006 and proposed allocations for Trimester 2 2006/2007, was considered by Council at its Ordinary Meeting held on 13 December 2006.

DIRECTOR'S RECOMMENDATION

That the report be received and the information noted.

PANEL RECOMMENDATION

That the report be received and the information noted.

9 May 2007
To the Ordinary Meeting of Council

Panel Report

Community Benefit Grants Panel – 11 April 2007 (Attachment 1) (contd)

11 April 2007
To the Community Benefit Grants Panel

CBG06 Applications for Trimester 3 2006/2007

F2005/01881 DA

DIRECTOR'S RECOMMENDATION

That a report be referred to Council recommending allocation of funding from the Community Benefit Grants program.

COUNCILLOR WELHAM DECLARED AN INSIGNIFICANT CONFLICT OF INTEREST IN RELATION TO THE SAN REMO COMMUNITY ENVIRONMENT PROJECT INC APPLICATION FOR THE REASON THAT HE WAS THE MAYOR'S REPRESENTATIVE AT THE COMMUNITY GARDEN AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

PANEL RECOMMENDATION

- 1 *That a report be referred to Council's Ordinary Meeting of 9 May 2007 recommending the following:*
 - a *That \$24,380.00 be allocated from the 2006/2007 Community Financial Support Program to the following applications under Trimester 3 of the Community Benefit Grants Program:*

<i>Recipient</i>	<i>Purpose</i>	<i>Funding Allocated</i>
<i>Country Womens Association of NSW Mannering Park Branch</i>	<i>Donations towards rates</i>	<i>\$1,450</i>
<i>Yarramalong School of Arts</i>	<i>Donations towards rates</i>	<i>\$430</i>
<i>Tuggerah Lakes Aquatic Club Inc</i>	<i>Donations towards rates</i>	<i>\$1,000</i>
<i>Tall Timbers Pony Club</i>	<i>Donations towards rates</i>	<i>\$3,000</i>
<i>Country Womens Association of NSW Toukley Branch</i>	<i>Donations towards rates</i>	<i>\$1,300</i>
<i>Community Mosaic</i>	<i>Develop a tiled mosaic artwork</i>	<i>\$2,500</i>

Community Benefit Grants Panel – 11 April 2007 (Attachment 1) (contd)**CBG06 Applications for Trimester 3 2006/2007 (contd)**

<i>Recipient</i>	<i>Purpose</i>	<i>Funding Allocated</i>
<i>San Remo Community Environment Project Inc</i>	<i>Cost of equipment used for support activities</i>	<i>\$1,700</i>
<i>Central Coast Community College (Aging Drivers Workshop)</i>	<i>Develop and run workshops to build awareness, knowledge and skills to assist older people to continue driving safely and prepare for the age driving test</i>	<i>\$9,000</i>
<i>Tuggerawong Progress Association</i>	<i>Donations towards rates</i>	<i>\$4,000</i>

- b That the remaining applications from Trimester 3 2006/2007 be determined as indicated in the table below and the applicants be advised and where relevant, directed to alternate funding programs:*

<i>Organisation</i>	<i>Proposal</i>	<i>Funding Requested</i>	<i>Panel Recommendation</i>
<i>Australian Volunteer Coast Guard</i>	<i>Donations towards rates</i>	<i>\$3,620.27</i>	<i>Defer consideration pending additional information.</i>
<i>Australian F1 Superboat Series</i>	<i>Run Round 2 of Superboat Series</i>	<i>\$11,000</i>	<i>To be referred to 11 April 2007 Council Meeting for consideration of \$5,000 as a Motion of Urgency.</i>
<i>Cynthia Street Neighbourhood Centre Incorporated</i>	<i>Run two series of workshops</i>	<i>\$20,450</i>	<i>Not eligible as per guidelines 'work is better funded by State or Federal Government or by Corporate Sponsorship', refer to CDSE.</i>
<i>The Entrance/Long Jetty RSL Sub Branch</i>	<i>Donation towards Rates</i>	<i>Not Supplied</i>	<i>Application withdrawn as financial statements were unable to be provided.</i>
<i>Wesley Mission's School for Seniors – Central Coast Campus</i>	<i>Funding for running costs associated with a bus, picking up clients who cannot access public transport</i>	<i>\$11,000</i>	<i>Rejected, additional information not received.</i>

THERE BEING NO FURTHER BUSINESS THE PANEL MEETING CLOSED AT 10.28 AM.

9 May 2007
To the Ordinary Meeting of Council

Panel Report

Community Benefit Grants Panel – 11 April 2007 (Attachment 2)

Community Benefit Grant Program – 2006/2007

Revised Budget Allocation 2006/2007 **\$160,000**

Less funding allocated:

Trimester One (\$33,133)

(Allocated from Ordinary Meeting held on 13 September 2006)

Trimester Two (\$12,768) (\$45,901)

(Allocated from Ordinary Meeting held on 13 December 2006)

Available Funding after Trimester One and Two Allocations **\$114,099**

Less amount allocated to Central Coast Pro Surfing Competition (\$15,000)

(Allocated from Ordinary Meeting held on 14 February 2007)

Available Funding for Trimester Three –
(As of 11 April 2007 Community Benefit Grants Meeting 9.30 am) **\$99,099**

Less amount allocated to Australian F1 Superboat Series (\$5,000)

(Allocated from Ordinary Meeting held on 11 April 2007)

Available Funding for Trimester Three after Australian F1 Superboat Series Allocation **\$94,099**

Less Trimester three allocations (proposed) (\$24,380)

Budget Savings for 2006/2007 **\$69,719**

(To be addressed in March Quarterly Review)

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WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

General Manager's Report

186 Information Reports

F2006/02282 ED:MR

SUMMARY

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

RECOMMENDATION

That Council determine the method of adoption of the Information Reports for this meeting.

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

187 Population, Infrastructure and Services Summit

F2006/01713 DSS:RE

SUMMARY

This report outlines the response received to Council's representations to the State Government in relation to the Population, Infrastructure and Services Summit. A copy of the response is attached to this report (Attachment 1).

RECOMMENDATION

That the report be received and the information noted.

BACKGROUND

At its meeting held on 8 November 2006, Council adopted a report in respect of the outcome of the Population, Infrastructure and Services Summit. Part 2 of the resolution stated as follows:

"2 That letters be sent to appropriate Ministers and the State Premier outlining the issues from both the Summit and the written submissions received."

On 23 November 2006, Council forwarded correspondence to the Ministers and State Premier outlining the outcome of the Summit and submissions received from the community. Council sought the Government's support in addressing the backlog in services and infrastructure previously not provided to the Central Coast during high growth periods and requested that the Government ensure that future growth is accompanied by appropriate infrastructure and services to meet Council's requirements and provide a reasonable quality of life on the Central Coast.

To date, one response has been received on behalf of the (then) Minister for Roads. A copy of this response is attached for Council's information.

Attachment 1

Letter from Minister for Roads and Transport (2 pages)

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

Population, Infrastructure and Services Summit (Attachment 1)



Office of the Minister for Roads
Minister Assisting the Minister for Transport

M07/0290

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

12 MAR 2007

Dear Mr Yates

Thank you for your letter to the NSW Premier which was referred to the Minister for Roads concerning roads issues raised during the Population, Infrastructure and Services Summit hosted by Council in October 2006. The Minister has asked me to reply on his behalf.

With regard to the roads infrastructure mentioned in your letter I am advised:

- Pacific Highway through Wyong
The Roads and Traffic Authority (RTA) is currently consulting with the community and issued a community update in October 2006 seeking public comment on the options to upgrade the Pacific Highway through Wyong. Public comments closed in mid December 2006 and the RTA is currently assessing feedback from the community.
- The Entrance Road (Central Coast Highway)
Major intersection upgrades have been completed at Avoca Drive, Terrigal Drive and Crystal Street, along with traffic management and safety improvement works at Long Jetty. Further major works are underway to duplicate the roadway between Terrigal Drive and Carlton Road and also between Ocean View Drive and Tumby Road. A project to rehabilitate the roadway between Lumby Drive and Cresthaven Avenue at Bateau Bay was completed last year and this work is continuing between Whalans Road and Coleridge Road which commenced in January 2007. A new bus priority lane was also installed in 2006 between George Street and Adelaide Street at East Gosford to improve bus travel times.

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

Population, Infrastructure and Services Summit (Attachment 1) (contd)

-2-

- **Toukley road system**
The RTA has indicated that it regularly monitors the performance of Toukley Road (a State Road) which is operating at a satisfactory level. The responsibility for the remainder of the Local Road system in Toukley rests with Council.
- **Minnesota Road**
Minnesota Road is a Local Road and the responsibility for maintenance and repairs rests with Council.

Should you require any further information, please contact the RTA's Central Coast Manager Mr Glenn Weymer on 4379 7001.

Yours sincerely



Matt Brown MP
Parliamentary Secretary for Roads

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

188 Schedule of Bank Balances and Investments – March 2007

F2004/06604 KF

SUMMARY

The attached Schedule of Bank Balances and Investments as at 31 March 2007 are submitted for information.

RECOMMENDATION

That the report be received and the information noted.

BACKGROUND

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

The Schedule of Bank Balances and Investment Accounts shows that Council has total cash and investment funds of \$124,787,668 as at 31 March 2007. This compares to an opening balance of \$116,561,933 as at 1 July 2006. These funds are invested with Fund Managers in accordance with Council's decision to adopt an investment policy that involves the use of external Fund Managers.

During the month of March interest earned (net of fees) on Council's investments and bank accounts was \$666,731 financial year to date earnings were \$5,299,207.

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

	Investment Balances		Interest	
	Opening Balance	Closing Balance	Interest Net Of Fees	Annual Budget
	July 1 2006	March 31 2007	YTD	
General	66,533,621	67,002,301	3,173,128	4,265,000
Water	34,456,574	34,323,334	1,302,411	1,286,000
Sewer	15,571,738	23,462,033	823,668	751,000
Total	116,561,933	124,787,668	5,299,207	6,302,000

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

Council's bank balances and investments as at 31 March 2007 are listed as Attachment 1 to this report. Also submitted is a Certificate in accordance with the provisions of the Local Government (General) Regulation 2005 that the Investments held at 31 March 2007 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

Performance

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

Management of Bank Balance

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

Monthly performance against the UBSWA Bank Bill Index

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

The weighted average return for the total portfolio of Council's managed funds (net of fees) during March was 6.14% compared to the benchmark of the UBSWA Bank Bill Index of 6.34%.

During the previous twelve months Council's return has been 6.21% compared to the Bank Bill Index of 6.21%.

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

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

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

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

SCHEDULE OF INVESTMENTS AS AT March 31 2007							
FUND MANAGER	TYPE	PORTFOLIO BALANCE	INCOME FOR MONTH	FEEES	ANNUALISED RETURNS		
					MONTH	FYTD*	MAT**
Local Gov't Financial Serv	Cash Plus	1,153,901.05	6,281.56	-	6.64%	6.32%	6.21%
BT Institutional Managed Cash (AAA)	Cash	20,299,724.20	196,558.18	2,248.78	6.31%	6.17%	6.02%
Deutsche Fund (A)	Cash Plus	20,198,788.94	102,703.06	1,223.46	6.11%	6.54%	6.32%
ING Enhanced (A)	Cash Plus	15,623,377.44	82,781.42	946.49	6.38%	6.54%	6.35%
Perennial Cash Enhanced Fund (AA)	Cash Plus	13,216,557.86	62,530.55	800.60	5.67%	6.42%	6.15%
Perpetual Structured Income Fund (AA)	Cash Plus	5,001,584.48	1,672.60	88.12	N/A	N/A	N/A
Macquarie Income Cash Plus (A)	Cash Plus	21,627,804.51	113,013.56	1,309.86	6.29%	6.54%	6.28%
T-Corp (WorkCover NSW)	Cash Plus	7,403,000.00	39,336.52	-	6.36%	6.07%	5.94%
Merrill Lynch (A)	Cash Plus	11,942,225.49	45,019.75	615.88	5.23%	7.11%	6.85%
QIC Cash Enhanced (AA)	Cash Plus	8,320,704.83	9,888.70	137.56	6.32%	6.43%	6.39%
TOTAL		124,787,668.80	659,785.90	7,370.75	6.14%	6.41%	6.21%
UBSWA INDEX					6.34%	6.35%	6.21%

*- FYTD= Financial Year to Date

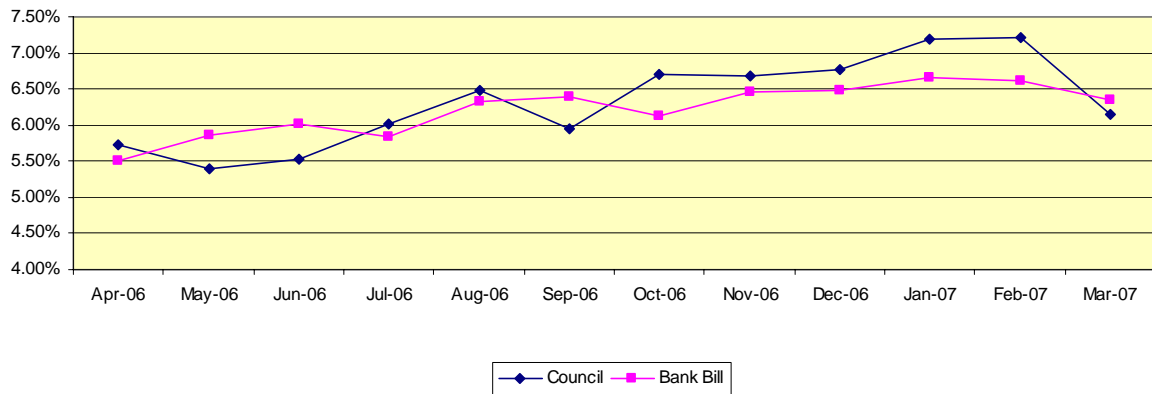
**- MAT = Moving Annual Total

Note: The above returns are net of fees charged

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

Portfolio Performance against the UBSWA Bank Bill Index

Council's investment strategy has continued to produce above market returns, the average monthly return of the portfolio compared against the Bank Bill Index for the previous twelve months is displayed in the following graph.



Allocation of Investment Funds

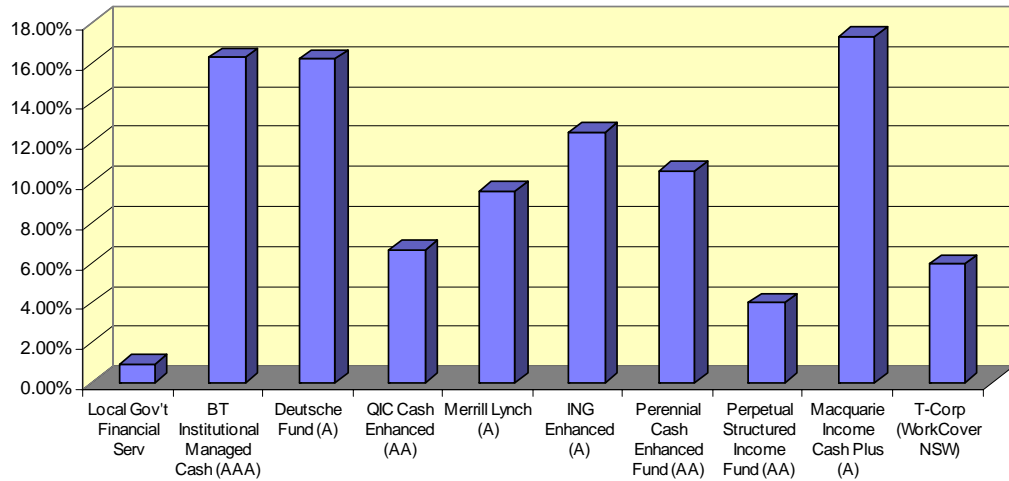
This represents the mix or allocation of investment funds with each of Council's Fund Managers.

Council's funds during March were allocated as follows:

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

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



INVESTMENT STATEMENT

In accordance with the Local Government (General) Regulation 2005, Part 9, Division 5, Clause 212, I certify that the investments held at 31 March 2007 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

.....
Director Corporate Services

Attachment 1

***Schedule of Bank Balances and Investments 31 March 2007
(1 page)***

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

SUMMARY

March 31 2007

<u>General</u>	\$
Unrestricted	4,707,101.35
Restricted - Internally	23,036,000.00
Restricted - Externally	39,259,200.00
Total General	67,002,301.35
 <u>Water</u>	
Unrestricted	-3,862,565.89
Restricted - Internally	864,000.00
Restricted - Externally	37,321,900.00
Total Water	34,323,334.11
 <u>Sewer</u>	
Unrestricted	2,515,033.34
Restricted - Internally	1,558,000.00
Restricted - Externally	19,389,000.00
Total Sewer	23,462,033.34
 TOTAL INVESTMENTS	 124,787,668.80
 BANK BALANCE PER BANK STATEMENT	 296,680.49
 TRUST ACCOUNT PER BANK STATEMENT	 23,695.73

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

189 Outstanding Questions Without Notice and Notices of Motion

F2006/02282 MW:SW

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

RECOMMENDATION

That the report be received and the information noted.

Question Asked	Asked By	Meeting Asked	Department
Q003 – Business Arising – 14 December 2005 (Staff sent Memo to Councillor Best on 7 February 2006, 11 October 2006 and 1 March 2007 requesting an answer)	Councillor Welham	23 January 2006	Corporate Services
Q037 – Extreme Sports Park at San Remo (A response will be reported to the Ordinary Meeting on 23 May 2007)	Councillor Welham	28 March 2007	Shire Services
Q038 – International Cities, Town Centres and Communities Organisation and Conference (A response will be reported once a reply is received from Councillor Welham)	Councillor Pavier	28 March 2007	Corporate Services
Q040 – Activities and Achievements of Business Central Coast for Financial Year 2006/2007 (Business reports received from Business Central Coast for 1-3 Quarters and will be presented to the Ordinary Meeting on 23 May 2007).	Councillor Stewart	11 April 2007	Corporate Services

Outstanding Questions Without Notice and Notices of Motion (contd)

Motion of Urgency	Department	Meeting Asked	Status
049A – Safety of Beach Patrons at Magenta Beach	Shire Planning	14 February 2007	Awaiting response from Department of Planning.

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

WYONG SHIRE COUNCIL

9 May 2007
To the Ordinary Meeting of Council

Shire Services Department

Answers to Questions Without Notice

Q027 – Line Marking at Intersection of The Corso and Wallarah Road, Gorokan

Asked by Councillor Welham at the adjourned Ordinary Meeting of 14 March 2007
F2004/07970

Could Staff review the line marking at the intersection of The Corso and Wallarah Road, Gorokan and in particular the space provided for queuing vehicles making a left turn from The Corso into Wallarah Road.

The Roads and Traffic Authority (RTA) is responsible for linemarking on state roads. Further, the RTA is also responsible for line marking in roads adjacent in the vicinity where the road intersects the state road.

Walarah Road is a state road and the line marking in The Corso at the intersection with Wallarah Road is the responsibility of the RTA.

Council has written to the RTA raising the above concern and requested that the RTA investigate and take appropriate action.

9 May 2007
To the Ordinary Meeting of Council

Shire Services Department

Answers to Questions Without Notice (contd)

Q028 – Lease of Footpath Space in Budgewoi Area for Trolley Bay

Asked by Councillor Welham at the adjourned Ordinary Meeting of 14 March 2007
F2004/11655

On the 13 February 2002, Item 48, Council resolved that the proceeds from the lease of the footpath space in the Budgewoi area for a trolley bay be used in the immediate precinct. Council recently renewed this lease, will the proceeds from the new lease continue to be spent in the immediate area.

Yes, these funds will continue to be spent in the Budgewoi Town Centre area. A specific restricted asset investment will be established and will accumulate funds to allow expenditure on targeted improvements in the Budgewoi Town Centre Area. Should funds not be expended in any one financial year, these amounts will rollover to the following year/s.

9 May 2007
To the Ordinary Meeting of Council

Corporate Services Department

Answers to Questions Without Notice (contd)

Q029 – Numbering of Properties in Valley Areas

Asked by Councillor Stewart at the adjourned Ordinary Meeting of 14 March 2007
F2004/00500

Would Council please re-visit the numbering of properties in the valley areas as few people have changed their property numbers from Roadside Mail Box (RMB) numbers? This could have had a catastrophic result recently, when an ambulance was trying to find seriously ill patients.

Council staff have been carrying out the renumbering of rural properties throughout the Shire for a number of years. Once a property has been identified and a new number allocated the property owner is advised of the new number and requested to commence using the new number.

The numbering has been carried out following guidelines and in consultation with the Department of Lands.

The Local Government Act, 1993 under Section 124 Orders Part 8 allows Council to issue an Order for the owner or occupier of land *“to identify premises with such numbers or other identification in such manner as is specified in the order”*. At this stage Council does not have an Order in place to enforce ratepayers to display their property number.

A survey of rural property numbers is currently being undertaken and appropriate orders will be issued to ensure compliance with this important initiative.

Council staff have prepared and released Media Releases in respect to the new rural addressing and requested residents commence using their newly allocated numbers as soon as possible. The new 2007 Edition of the Central Coast UBD Directory also shows the location of newly named private roads. It is anticipated that other private roads that have not been put in the 2007 Directory will be identified and placed in the 2008 Edition.

If Council staff are made aware of any problems involving the new rural addresses, these enquiries are dealt with as soon as possible and where necessary letters sent to the owners confirming the correct house number and location and requesting owners display their new numbers.

Answers to Questions Without Notice (contd)

Q030 – Slats Installed at North Shelly

Asked by Councillor Stewart at the adjourned Ordinary Meeting of 14 March 2007
F2004/12497

Could staff please look at the slats that have been installed at North Shelly Beach, with the view of installing a fence either side of them? It has been reported that recently a star picket had emerged up through the sand from the old garbage tip.

Council staff have inspected the area and removed old star pickets and sections of fence that have emerged from the old garbage tip. Emergency repairs to the beach access walkway have been undertaken and the temporary safety mesh erected in March will be replaced with a more stable chainwire construction fence in order to ensure pedestrians access the beach via the walkway.

The re-alignment and full reconstruction of this beach access is listed in the program of works for 2007/08. These works will be undertaken in August 2007 in order to minimise disruption to user groups.

9 May 2007
To the Ordinary Meeting of Council

Shire Planning Department

Answers to Questions Without Notice (contd)

Q031 – Temporary Traffic Arrangements at Lake Haven Shopping Centre

Asked by Councillor Eaton at the adjourned Ordinary Meeting of 14 March 2007
DA/2793/2003/L

Can Council review the temporary traffic arrangements at the rear entry of Lake Haven Shopping Centre as it is causing confusion to many users and shoppers?

The temporary traffic control arrangements are in accordance with the traffic control plans submitted to and approved by Council. To date, there have been various stages of work undertaken, resulting in several differing scenarios of traffic control. This is unavoidable due to the complexity of the works that are required to build two signalised intersections on Lakehaven Drive. No long term works on the site have been permitted which would prevent two way traffic flow other than between 8pm and 6am Monday to Thursday. Approximately six instances of night works are anticipated during the course of the works. Some short term works involving the stopping of traffic have been permitted to allow construction traffic and materials to access the roadworks where no other alternative access is possible. At all times, these short term stoppages are avoided during the peak traffic times, and are stopped if traffic queues reach the roundabout on the Pacific Highway.

On Thursday 29 March 2007, emergency repair works on the traffic control setup were undertaken at Council's direction. These works involved the replacement of temporary linemarking which had become unclear and could possibly have resulted in unsafe traffic conditions, and required temporary stoppage of traffic under Stop/Slow controllers. The repair works were commenced at 10am to avoid the heavy morning traffic and result in less disruption to traffic. One of Council's subdivision inspectors was on site during these repair works to ensure that if traffic queues reached the Pacific Highway and Lakehaven Drive intersection, works would be suspended and the traffic queues released prior to recommencing the repairs. Whilst not the preferable situation, the works were urgent to avoid a dangerous situation that may have arisen with unclear line marking.

With reference to the no right turn from Stratford Avenue to Lakehaven Drive, the works staging would result in an unsafe condition for traffic if this right turn was maintained. The alternate route of turning left from Stratford Avenue and performing a u turn at the Lakehaven Drive and Goobarabah Avenue roundabout appears to be working. This roundabout is approximately 200m from the Stratford intersection so results in very little additional disruption to traffic. The signposting of the restriction to right turn movements on Stratford Avenue is clearly visible.

Unfortunately, there will be some disruption to traffic due to the works on site, but Council is working with the Contractor on site and only approving traffic control plans that comply with relevant standards and result in minimal disruption to traffic. It is anticipated that the traffic lights will be operational within 6-8 weeks.

Answers to Questions Without Notice (contd)

Q032 – Premature Electrification of Street Lights in New Estates

Asked by Councillor Eaton at the Ordinary Meeting held on 28 March 2007
F2004/00189

Could Council liaise with Energy Australia in relation to the premature electrification of street lights in New Estates?

The Erina office of Energy Australia, Street Lighting Division, has advised the following:

“Once the electrical infrastructure, including substations and fuse installation, is complete the system is energised and made operational. This eliminates the need for additional site visits, delays and costs.”

The timing for the electrical system being operational is generally at the release of the plan of subdivision and dedication of the roads to Council. Lighting of the public roads is provided in accordance with the Australian Standards for safety and Council liability reasons.

It is acknowledged that street lighting often becomes operational in subdivisions well prior to the erection of dwelling houses and the occupation of those dwellings by new residents. It is Energy Australia policy and procedure that as soon as the subdivision is complete and the linen plan released, that the street lighting system be turned on. Whilst from one point of view, this can lead to a substantial wastage of energy, Energy Australia argues and Council would agree, that once the linen plan is released, the roads within the subdivisions become public roads and may be utilised by both vehicular and pedestrian traffic. Therefore, from a safety and liability viewpoint, Energy Australia’s policy is sensible in that it enables those who utilise the new subdivision to do so in relative safety.

9 May 2007
To the Ordinary Meeting of Council

Shire Services Department

Answers to Questions Without Notice (contd)

Q033 – Attendance and Profitability of Child Care Centres

Asked by Councillor Eaton at the Ordinary Meeting held on 28 March 2007
F2004/07558

Could Council report monthly on attendance and profitability of its child care centres?

Currently an occupancy report on attendance is provided to all Councillors via Councillor Business Update on a monthly basis and from May will include the profitability figures.

9 May 2007
To the Ordinary Meeting of Council

Corporate Services Department

Answers to Questions Without Notice (contd)

Q034 – Member for Wyong, Mr David Harris Address Council

Asked by Councillor Veugen at the Ordinary Meeting held on 28 March 2007
F2004/06395

That the Mayor invite the newly elected Member for Wyong, Mr David Harris to address the full Council to outline his commitment on how he is going to work with Council. This will allow all Councillors to question Mr Harris on what he is going to do regarding issues that are concerning our residents and ratepayers?

An invitation has been extended to Mr Harris to address Council at a convenient date.

9 May 2007
To the Ordinary Meeting of Council

Corporate Services Department

Answers to Questions Without Notice

Q035 – Possible Interests for Councillor Graham Relating to any Up Coming or Past Developments

Asked by Councillor Veugen at the Ordinary Meeting held on 28 March 2007
F2004/06507

Can Councillor Robert Graham please provide Council with a full list of all developers and developer agents he has had and is currently doing business with to clarify any possible interests relating to any up coming or past developments?

Councillor Graham has advised as follows:

QUOTE "...In response to a similar question from Councillor Eaton on 14 September 2005, I answered as follows:

ICAC made a number of recommendations to Council last year and these were formally adopted by council. I have complied with these recommendations as all Councillors were required to do.

My response to Cr Veugen is the same...." END OF QUOTE

Answers to Questions Without Notice (contd)

Q036 – Transcript of Ordinary Meeting 14 February 2007, Regarding Declared Interests in Councillor’s Community Improvement Grants Report

Asked by Councillor Welham at the Ordinary Meeting held on 28 March 2007
F2004/06507

At the meeting of 14 March 2007, Councillor Best requested in debate that the transcript be checked for the 14 February 2007 regarding whether he did or didn’t declare an interest in the Councillor’s Community Improvement Grants report dealing with a donation to ‘Friends of Wyong Hospital’. Could the results of this checking please be reported in writing to Council?

As recorded in the Minutes of 14 March 2007, the recording of the meeting of 14 February 2007 has been checked and there was no declaration of interest by Councillor Best concerning the Councillor Community Improvement Grants report dealing with a donation to “Friends of Wyong Hospital”.

9 May 2007
To the Ordinary Meeting of Council

Shire Services Department

Answers to Questions Without Notice (contd)

Q039 – Contents of \$39.00 refit kit

Asked by Councillor Eaton at the Ordinary Meeting held on 11 April 2007
F2004/11989

Could Council review the contents of the \$39.00 refit kit, which includes a hose trigger nozzle?

The current Retrofit kit includes the following items:

- * One (1) x AAA rated water saving showerhead
- * Four (4) x tap aerators
- * One (1) x garden hose trigger nozzle
- * One (1) x toilet cistern weight
- * Water/energy saving audit of home
- * Six (6) x energy saving light bulbs

Community interest in the programme has continued with kit installations in Wyong Shire averaging 10 properties per week.

Prior to 3 June 2006, when level 3 Water Restrictions were introduced, outside watering using a hand held hose connected to the town water supply was permitted. As such, prior to this date, a garden hose trigger nozzle was very relevant to the retrofit kit.

Since 3 June 2006, water restrictions do not permit outside watering using a hand held hose connected to the town water supply. However, properties with a water tank (which represent approximately 15% of properties) or bore may still use a hand-held hose for external watering. A garden hose trigger nozzle is still relevant to any retrofit kit purchased by owners of these properties.

Discussions with the Retrofit contractor have indicated that while deletion of the hose trigger nozzle from the programme is feasible there are no other suitable replacement water efficient devices, of equivalent value, available.

Removal of the trigger nozzle, without any replacement device, from the programme would disadvantage those residents interested in the programme who would want the nozzle for external watering using alternative water sources such as rainwater tanks.

Answers to Questions Without Notice (contd)

Q039 – Contents of \$39.00 refit kit (contd)

A further consideration is that eventually restrictions will be eased or removed and at such time the garden hose trigger nozzle would be relevant to saving water.

Based on the above, it is considered appropriate to leave the garden hose trigger nozzle in the retrofit kit, however insert into the kit a “flyer” informing purchasers of the current restriction requirements and how the nozzle may be used now on hoses connected to an alternative water supply, or in the future when restrictions are eased/removed.

9 May 2007
To the Ordinary Meeting of Council

Shire Planning Department

Answers to Questions Without Notice (contd)

Q041 – Property on the Corner of Warrigal and Taylor Streets, The Entrance

Asked by Councillor Stewart at the Ordinary Meeting held on 11 April 2007
P2005/07069

Would Council please contact the owner of the partially demolished house on the corner of Warrigal and Taylor Streets, The Entrance, with the view of having it demolished? There is probably asbestos involved in the demolition as it is a very old house.

A site inspection of the property has been carried out. The building is vacant and has been vandalised. A 1.8m high chain wire fence surrounds the property. Council staff were unable to obtain access to the interior of the building to determine whether or not asbestos is present, however taking into account the apparent age of the dwelling, it is considered likely that the building would contain some asbestos.

Council officers have held discussions with the property owner who has advised that he has no intentions of demolishing the dwelling. He was made aware of Council's concerns regarding the likelihood of asbestos and that taking into account the safety issue.

A Notice of Intention to demolish the building has now been issued. The owner has a right of objection and of appeal against the Notice. Council will consider any reasons raised by the owner to justify his desire to retain the building. However, it is likely that an Order for demolition will be issued due to the safety issue.