



Council staff have raised more than \$4,000 for the Queensland flood appeal by holding a cake stall (pictured), sausage sizzle, raffle and casual days. Council will match the fundraising efforts dollar for dollar, donating the money to help victims of the recent devastating floods.

# Business Paper

ORDINARY MEETING

09 February 2011



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# MEETING NOTICE

**The ORDINARY MEETING  
of Wyong Shire Council  
will be held in the Council Chamber,  
Wyong Civic Centre, Hely Street, Wyong on  
WEDNESDAY 9 FEBRUARY 2011 at 5.00 pm,  
for the transaction of the business listed below:**

## OPENING PRAYER

## ACKNOWLEDGEMENT OF COUNTRY

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

Michael Whittaker  
**GENERAL MANAGER**

## 1.1 Disclosure of Interest

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TRIM REFERENCE: F2010/00009 - D02457099  
AUTHOR: Susanna Gardiner, Administration Assistant  
MANAGER: Lesley Crawley, Manager Corporate Governance

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

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

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

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

### RECOMMENDATION

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

## 1.2 Proposed Inspections and Briefings

TRIM REFERENCE: F2011/00027 - D02450218  
AUTHOR: Susanna Gardiner; Administration Assistant  
MANAGER: Lesley Crawley, Manager Corporate Governance

### SUMMARY

Inspections held on 2 February 2011 are listed as follows:

Date of Inspection	Location	Requested By
2 February 2011	Stage 109 Lot Residential Subdivision, 80 Pacific Highway, Blue Haven	Director Environment and Planning Services
2 February 2011	Telecommunications Facility at 91W Eastern Road, Bateau Bay DA 1353/2010 (the pole is to be sited on John Henry Close Reserve)	Director Environment and Planning Services
2 February 2011	Tour of the Civic centre since the Service Delivery Review	Director Corporate Services

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

Date	Briefing	Description	Time	Presented by
9 February 2011	Commercial Strategy for Buttonderry Waste Management Facility	Presentation of finalisation of commercial strategy and recommendation options for short and medium term	12.00 pm – 1.30 pm	Director Infrastructure Management and Coordinator Waste Management
9 February 2011	Cabbage Tree Harbour	Presenting the construction option for Cabbage Tree Harbour	1.30 pm – 2.15 pm	Director Environment and Planning and Manager Environment and Natural Resources
9 February 2011	Central Coast Water Corporation	Update on recent developments of the Central Coast Water Corporation	2.15 pm – 3.00 pm	General Manager, Director of Infrastructure Management and Project Director Central Coast Water Corporation
23 February 2011	Precinct 7A Masterplan – Update Structure Plan	Overview of the urban design processes and work undertaken to date for the Precinct 7A study area	12.30 pm – 1.00 pm	Director Environment and Planning, Senior Strategic Planner and Strategic Planner
23 February 2011	Q2 Annual Plan and Budget	Quarterly 2010/2011 December report	1.00 pm – 1.30 pm	General Manager
23 February 2011	Follow up from Councillor's Weekend Workshop	Summary of outcomes from the Weekend Workshop held in February 2011	1.30 pm – 3.00 pm	Director Corporate Services and Manager Integrated Planning

**RECOMMENDATION**

- 1** *That Council receive the report on Proposed Inspections and Briefings and endorse the recommended inspections and briefings.*
- 2** *That Council endorse the list of 70 proposed briefings in Attachment 1 that do not cover matters may arise throughout the year.*

**ATTACHMENT**

- 1** Proposed Briefing Dates for 2011      D02507463

<b>PROPOSED DATE (QUARTER)</b>	<b>Director</b>	<b>Briefing Title</b>
MARCH-JUNE	Corporate Services	Fees and Charges
MARCH-JUNE	Corporate Services	Councillor input into the Continuous Improvement Program and Measures & Reporting
MARCH-JUNE	Corporate Services	Strategic Plan Review & Feedback
MARCH-JUNE	corporate services	asset management strategy and workforce management strategy
MARCH-JUNE	Environment and Planning Services	Shire-wide Heritage Review
MARCH-JUNE	Environment and Planning Services	Incomplete Buildings Policy
MARCH-JUNE	Environment and Planning Services	Draft Section 94A (indirect) Contributions Plan
MARCH-JUNE	Environment and Planning Services	Warnervale Town Centre Draft S94 Plan
MARCH-JUNE	Environment and Planning Services	Development Control Plan 61 – Carparking
MARCH-JUNE	Environment and Planning Services	DCP 97 - Water Sensitive Urban Design
MARCH-JUNE	Environment and Planning Services	DCP 113 – Floodprone Land
MARCH-JUNE	Environment and Planning Services	Iconic Development Sites
MARCH-JUNE	Environment and Planning Services	Wyong Town Centre DCP Chapter 7
MARCH-JUNE	Environment and Planning Services	Settlement Strategy
MARCH-JUNE	Environment and Planning Services	Climate Change Adaptation Report – March 2011.
MARCH-JUNE	Environment and Planning Services	Clause 14
MARCH-JUNE	Infrastructure Management	Porters Creek Floodplain Risk Mgt Plan
MARCH-JUNE	Infrastructure Management	Tumbi Creek Floodplain Risk Mgt Plan
MARCH-JUNE	Community & Recreation Services	Cost for Community & Education Service
MARCH-JUNE	Community & Recreation Services	Present graffiti strategy, recommendation & program
MARCH-JUNE	Infrastructure Management	Tuggerah Lakes Floodplain Risk Mgt Plan
MARCH-JUNE	Community & Recreation Services	Central Coast Sports field Management Strategy
MARCH-JUNE	Community & Recreation Services	Plan of Management Central Coast Caravan Parks
MARCH-JUNE	Community & Recreation Services	Present information on traditional custodians of lands and acknowledgement of country
MARCH-JUNE	Community & Recreation Services	Surf Club Lease Renewals



PROPOSED DATE (QUARTER)	Director	Briefing Title
MARCH-JUNE	Community & Recreation Services	Detail matching fund guidelines and framework
MARCH-JUNE	Corporate Services	Q3 Annual Plan and Budget
MARCH-JUNE	Corporate Services	Strategic Plan Post Exhibition
MARCH-JUNE	corporate services	Adoption for Exhibition annual plan
MARCH-JUNE	Environment and Planning Services	Wyong Civic & Cultural Masterplan
MARCH-JUNE	Environment and Planning Services	Greenhouse Mitigation Plan/Green Energy Funds Projects - May 2011
MARCH-JUNE	Environment and Planning Services	Climate Change Policy
MARCH-JUNE	Environment and Planning Services	Draft Wyong Employment Zone contributions plan
MARCH-JUNE	Environment and Planning Services	Wyong Employment Zone – Results of exhibition of DCP & S94 Contributions Plan / Biocertification update, DCP amendment update
MARCH-JUNE	Environment and Planning Services	RZ/17/2009 Bundeena Road, Glenning Valley
MARCH-JUNE	Environment and Planning Services	Precinct 7A Masterplan - Design Principles for Masterplan
MARCH-JUNE	Environment and Planning Services	The Entrance Town Centre Masterplan
MARCH-JUNE	Environment and Planning Services	Sustainability Update (Policy, Framework, Principles Review) – May 2011
MARCH-JUNE	Environment and Planning Services	Coastline Management Plan
MARCH-JUNE	Environment and Planning Services	Tuggerah Town Centre Masterplan
MARCH-JUNE	Infrastructure Management	RTA Proposal for Wyong township
MARCH-JUNE	Infrastructure Management	Lower Ourimbah Creek Floodplain Risk Mgt Strategy
MARCH-JUNE	Environment and Planning Services	Wyong Town Centre DCP Chapter 7
MARCH-JUNE	Infrastructure Management	Desalination
JULY- DEC	Community & Recreation Services	Central Coast Tourism Inc
JULY- DEC	Community & Recreation Services	Provide update of plans and financial viability of The Art House and Cultural Development
JULY- DEC	Community & Recreation Services	Engagement Strategy
JULY- DEC	Corporate Services	Q4 Annual Plan and Budget
JULY- DEC	Corporate Services	Report on SDR Outcomes
JULY- DEC	Corporate Services Environment & Planning Services	The Entrance Town Centre management agreement
JULY- DEC	Environment and Planning Services	Toukley Town Centre Masterplan

<b>PROPOSED DATE (QUARTER)</b>	<b>Director</b>	<b>Briefing Title</b>
JULY- DEC	Environment and Planning Services	Draft Shire-Wide Contributions Plan
JULY- DEC	Environment and Planning Services	Iconic Development Sites
JULY- DEC	Environment and Planning Services	Precinct 7A Masterplan - Feedback following exhibition
JULY- DEC	Environment and Planning Services	The Entrance Town Centre Masterplan
JULY- DEC	Environment and Planning Services	Biobanking
JULY- DEC	Community & Recreation Services	Review of Grants
JULY- DEC	Community & Recreation Services	Lifelong Learning Strategy
JULY- DEC	Community & Recreation Services	Community Facilities Strategy
JULY- DEC	Environment and Planning Services	Natural Resources Strategy
JULY- DEC	Corporate Services	Q1 Annual Plan and Budget
JULY- DEC	Environment and Planning Services	RZ/7/2009 Chittaway Point Rezoning
JULY- DEC	Infrastructure Management	Desalination
TO BE CONFIRMED	Corporate Services	Mariners Agreement
TO BE CONFIRMED	Corporate Services	CCTI Agreement
TO BE CONFIRMED	Corporate Services	Central Coast Business Enterprise Centre agreement
TO BE CONFIRMED	Corporate Services	Councillor attendance at formal dinners
TO BE CONFIRMED	Corporate Services/Environment & Planning Services	Greater Toukley Vision agreement
TO BE CONFIRMED	Environment and Planning Services	Biodiversity Management Plan

### **1.3 Address by Invited Speakers**

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TRIM REFERENCE: F2011/00027 - D02457104  
AUTHOR: Susanna Gardiner; Administration Assistant  
MANAGER: Lesley Crawley, Manager Corporate Governance

#### **SUMMARY**

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

#### **RECOMMENDATION**

*That Council receive the report on Invited Speakers.*

## **1.4 Confirmation of Minutes of Previous Meeting**

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TRIM REFERENCE: F2011/00027 - D02457105  
AUTHOR: Susanna Gardiner; Administration Assistant  
MANAGER: Lesley Crawley, Manager Corporate Governance

### **SUMMARY**

Confirmation of minutes of the previous Ordinary Meeting of Council held on 8 December 2010.

### **RECOMMENDATION**

***That Council confirm the minutes of the previous Ordinary Meeting of Council held on 8 December 2010.***

### **ATTACHMENTS**

- 1 Minutes of the Ordinary Meeting of Council held on 8 December 2010      D02454348

**WYONG SHIRE COUNCIL**

**MINUTES OF THE  
ORDINARY MEETING OF COUNCIL  
HELD IN THE COUNCIL CHAMBER  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON 8 DECEMBER 2010  
COMMENCING AT 5:00:00 PM**

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**PRESENT**

Councillors D J Eaton (Chairperson), G P Best, R L Graham, L A Matthews, E M McBride, J J McNamara, W R Symington, D P Vincent, L D Webster and S A Wynn.

**IN ATTENDANCE**

General Manager, Director Environment and Planning, Director Shire Services, Director Community Recreation Services, Director Corporate Services and General Counsel.

Manager Place Management, Project Director Mardi to Mangrove Project, Manager Environment and Natural Resources, Manager Land Use Planning and Policy Development, Development Planner, Senior Planning Engineer Hydrology, Senior Planner and Engineer Hydrology and two administration staff.

The Mayor, Councillor Eaton, declared the meeting open at 5.00 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

Mr John Hardwick delivered the opening prayer.

Councillor Matthews read an acknowledgment of country statement.

Councillor Graham advised Council on two categories of the LGSA 2010 Excellence in the Environment Awards won by Wyong Shire:

- Winner in the category for Natural Environment Protection and Enhancement: On-Ground Works Award – Division C
- Overall winner in the category for Natural Environment Protection and Enhancement: On-Ground Works Award

Councillor Graham also thanked staff on their dedication and endeavours in this regard.

**APOLOGIES**

There were no apologies.

At the commencement of the ordinary meeting report nos 1.1, 1.2, 1.3, 2.1, 3.2, 3.1 and 5.10, 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.

## 1.1 Disclosure of Interest

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### 3.1 DA 711/2009 - Residential Flat Development at 44-46 Minnesota Road, Hamlyn Terrace

The Project Director Mardi to Mangrove Project declared a non-pecuniary insignificant conflict of interest in the matter for the reason he has a relative speaking against the item and remained in the chamber during consideration of this matter.

### 3.2 DA 771/2010 - Proposed Hospital (Rehabilitation Facility) Dooralong Road, Dooralong

Councillor Symington declared a non-pecuniary insignificant conflict of interest in the matter for the reason that he is a volunteer collector for the Salvation Army Red Shield Appeal and participated in consideration of this matter.

Councillor Symington stated:

*"I choose to remain in the Chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I am not an employee and my involvement is only for one day per year."*

### 5.4 Provision of Cleaning Services for The Entrance Town Centre

Councillor Webster declared a non-pecuniary insignificant conflict of interest in the matter for the reason that she is a Director of The Entrance Town Centre Management and participated in consideration of this matter.

Councillor Webster 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."*

### 5.10 Update on Developments at Halekulani Quarry and Toukley Closed Landfill

Councillor Wynn declared a pecuniary interest in the matter for the reason that a family member is a resident in the affected area, left the chamber at 7:06 pm took no part in discussion, did not vote and returned to the chamber at 7:21 pm.

### 7.3 Minutes – Wyong Shire Grants Committee Meetings

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that his wife is a performer in an event subject to a grant application, left the chamber at 8:54 pm took no part in discussion, did not vote and returned to the chamber at 8:57 pm.

Councillor Vincent declared a non-pecuniary insignificant conflict of interest in that part of the matter which refers to the Mannering Park Social Club and the Mannering Park Community Festival for the reason that he is a volunteer on the day at the Mannering Park Festival and participated in consideration of this matter.

Councillor Vincent stated:

*"I choose to remain in the Chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I am not a member of the Social Club or the Organising Committee."*

Councillor Wynn declared a non-pecuniary insignificant conflict of interest in that part of the matter which refers to the Mannering Park Social Club regarding the Mannering Park Community Festival for the reason that she is a resident of Mannering Park and participated in consideration of this matter.

Councillor Wynn 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."*

#### **U23/10 National Health Agreement and Health Funding**

Councillor McBride declared a pecuniary interest in the matter for the reason that she is an employee of Northern Sydney Central Coast Area Health based primarily at Wyong Hospital, left the chamber at 9:50 pm took no part in discussion, did not vote and returned to the chamber at 9:54 pm.

#### **12.1 Contract CPA 187074 Provision of Project Management Services for the Mardi to Mangrove Link Project**

Councillor Wynn declared a pecuniary interest in the matter for the reason that a family member is a member of one of the tender teams, left the chamber at 9.59 pm took no part in discussion, did not vote and did not return to the chamber.

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

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

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

AGAINST: NIL

#### **1.2 Address by Invited Speakers**

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

***1 That Council receive the amended report on Invited Speakers.***

***2 That Council agree meeting practice be varied to allow reports from Directors and/or the General Manager to be dealt with following an Invited Speaker's address.***

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

AGAINST: NIL

**1.3 Confirmation of Minutes of Previous Meeting**

---

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

**That Council confirm the minutes of the previous Ordinary Meeting of Council held on 24 November 2010.**

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

AGAINST: NIL

**Business Arising**

Councillor Vincent asked that the Mayor have regard to any late items not listed on the agenda when asking Councillors to call items for consideration when using the exception method to deal with the balance of the Agenda.

**2.1 Notice of Intention to Deal with Matters in Confidential Session**

---

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

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

**12.1 Contract CPA/187074 Provision of Project Management Services for the Mardi to Mangrove Link Project**

**2 That Council note its reason for considering Report No 12.1 as it may confer a commercial advantage (Section 10A(2)).**

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

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

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

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

AGAINST: NIL



**3.1 DA 711/2009 - Residential Flat Development at 44-46 Minnesota Road, Hamlyn Terrace**

---

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

Councillor Matthews left the meeting at 6:48 pm and returned to the meeting at 6:50 pm during consideration of this item.

Mrs Angela Tibbles, resident of Hamlyn Terrace, against the item, addressed the meeting at 6.49 pm, answered questions and retired at 6.59 pm.

Councillor Matthews left the meeting at 6:54 pm and returned to the meeting at 6:55 pm during consideration of this item.

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

**1 That Council, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, grant consent subject to the conditions detailed in the schedule attached to the report.**

**2 That Council advise those who made written submissions of its decision.**

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

AGAINST: COUNCILLOR MCNAMARA

**3.2 DA 771/2010 - Proposed Hospital (Rehabilitation Facility) Dooralong Road, Dooralong**

---

Councillor Symington declared a non-pecuniary insignificant conflict of interest in the matter for the reason that he is a volunteer collector for the Salvation Army Red Shield Appeal and participated in consideration of this matter.

Councillor Symington stated:

*"I choose to remain in the Chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I am not an employee and my involvement is only for one day per year."*

Mr Troy Beaver, resident of Dooralong, against the item, addressed the meeting at 5.11 pm, answered questions and retired at 5.17 pm.

Mr Warwick Benjes, representing Dooralong Valley Residents Association, against the item, addressed the meeting at 5.18 pm, answered questions and retired at 5.25 pm.

Major Kerrie Hoggar, Divisional Commander, representing the Salvation Army, in favour of the item, addressed the meeting at 5.25 pm, answered questions and retired at 5.29 pm.

Mr Ben Moyes, representing the Salvation Army, in favour of the item, addressed the meeting at 5.30 pm, answered questions and retired at 5.35 pm.

Councillor Vincent left the meeting at 6:38 pm and returned to the meeting at 6:39 pm during consideration of this item.

A MOTION was MOVED by Councillor BEST and SECONDED by Councillor MCNAMARA:

*That due to the strong community concern Council afford the local residents and ratepayers the assurance of due process and thoroughness through Council deferring this matter until a thorough Council site inspection has taken place and senior independent legal advice has been received.*

FOR: COUNCILLORS BEST, EATON, MCNAMARA AND WEBSTER

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

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

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

- 1 That Council, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, grant consent subject to appropriate conditions.**
- 2 That Council advise those who made written submissions of its decision.**

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

AGAINST: COUNCILLORS EATON, MCNAMARA AND WEBSTER

The meeting was adjourned for two minutes to clear the gallery.

### **3.3 Proposed Adoption of Council Policy and Proposed Public Exhibition of DCP 2005: Chapter 97 - Water Sensitive Urban Design**

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Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

A MOTION was MOVED by Councillor GRAHAM and SECONDED by Councillor MCNAMARA:

- 1 That Council adopt the Policy titled "Application of Water Sensitive Urban Design for Projects Undertaken by or on Behalf of Council."**
- 2 That Council in principle endorse the draft DCP No 2005 Chapter 97 Water Sensitive Urban Design and the associated Council Policy subject to the DCP containing the appropriate clauses ensuring it is cost neutral compared to traditional engineered solutions.**
- 3 That the General Manager be delegated the power to place on exhibition the amended DCP.**

FOR: COUNCILLORS EATON, GRAHAM, MCNAMARA AND WEBSTER

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

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

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

- 1 That Council adopt the Policy titled "Application of Water Sensitive Urban Design for Projects Undertaken by or on Behalf of Council."
- 2 That Council place the draft Development Control Plan (DCP) No. 2005: Chapter 97 - Water Sensitive Urban Design (WSUD), together with the proposed adoption of an associated Council Policy on public exhibition for a period of 2 months.
- 3 That Council adopt, the draft Development Control Plan and appropriate public notice be given, subject to there being no significant objections.

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

AGAINST: COUNCILLORS EATON AND MCNAMARA

At this point in the meeting, the General Manager introduced Maxine Kenyon, Director Community and Recreation.

The Mayor, Councillor Eaton then thanked the departing Director Shire Services, Mr Paul Wise on his 36 years service with Council and wished Paul all the best for the future.

Councillor Vincent thanked Paul Wise on his contribution in the current term of Council.

### **3.4 Wyong Shire On-Road Bicycle and Shared Pathway Strategy Priority Projects**

---

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

***That Council adopt the Wyong Shire On-Road Bicycle and Shared Pathway Strategy, Background Document and Action Plan, incorporating the amendments outlined in this report.***

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

AGAINST: NIL

### **3.5 Public exhibition of Tuggerah Lakes Floodplain Risk Management Study**

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Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

- 1 That Council endorse the Tuggerah Lakes Floodplain Risk Management Study for public exhibition.
- 2 That Council endorse the public exhibition period to extend from 10 December 2010 to 11 April 2011.

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

AGAINST: NIL

### **3.6 Development Control Plan 2005 draft Chapter 113 - Flood Prone Land Development**

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Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

***That Council defer the matter for a briefing in early 2011.***

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

AGAINST: NIL

### **PROCEDURAL MOTION**

#### **SUSPENSION OF ORDER OF BUSINESS**

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

***That Council use the exception method to deal with the balance of the Agenda.***

FOR: COUNCILLORS EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, WEBSTER AND WYNN

AGAINST: COUNCILLORS SYMINGTON AND VINCENT

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

***That with the exception of report numbers 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8, 7,3 8.2, 8.3, 8.5, 8.6, 8.7, 9.1, 10.1, 10.2, 10.3 and 12.1 Council adopt the recommendations contained in the remaining reports.***

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

AGAINST: NIL

#### 4.1 Contract CPA/175061 Developing Headworks Database and Water Data Transfer Format (WDTF) Applications

---

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

- 1 That Council accept the tender from IPower Solutions Pty Ltd for the lump sum amount of \$197,133 (excl GST) for Contract CPA/175061 – Developing Headworks Database and Water Data Transfer Format (WDTF).
- 2 That Council approve a contract budget of \$237,133 (excl GST) that provides for a contingency amount of \$40,000 (excl GST), representing approximately 20% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.

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

AGAINST: NIL

#### 5.1 Economically and Environmentally Sustainable Living Demonstration House

---

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

Councillor Vincent left the chamber at 8.11 pm and returned to the chamber at 8.17 pm during consideration of this item and as a result took no part in voting.

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

- 1 That Council acknowledge the research undertaken to date to assess the feasibility of developing a Sustainable Living Demonstration House.
- 2 That Council thank Yeramba Estates and McDonald Jones Homes for their assistance and input in the development of the potential framework for establishing a Sustainable Living Demonstration House.
- 3 That Council defer any further action in respect of the project on the basis of Council's current financial limitations.

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

AGAINST: NIL

**5.2 Central Coast Arts and Conference Centre Naming Competition Winner**

---

Councillor Vincent left the chamber at 8.11 pm and returned to the chamber at 8.17 pm during consideration of this item.

Councillor Best returned to the meeting at 8:18 pm during consideration of this item.

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

- 1 That Council accept the Central Coast Arts and Conference Centre Naming Competition Judging Panel's recommendation that the winning prize be awarded to Richard Coye for "The Art House" and the two runner up prizes be awarded to Tracy Miller for "Wyong Regional Arts Centre" and Marianne Cowan for "The Anzac Memorial Arts Centre".**
- 2 That Council name the Arts Centre "The Art House, Wyong Shire Performing Arts and Conference Centre" and register the name as a Trademark.**
- 3 That Council undertake a logo design competition for "The Art House, Wyong Shire Performing Arts and Conference Centre".**

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

AGAINST: NIL

**5.3 Status of the Implementation of Cultural Change**

---

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

- 1 That Council receive the Report outlining the status of the implementation of the Cultural Change activities.**
- 2 That the Cultural Change process be incorporated into the integrated planning process.**

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

AGAINST: NIL

**5.4 Provision of Cleaning Services for The Entrance Town Centre**

---

Councillor Webster declared a non-pecuniary insignificant conflict of interest in the matter for the reason that she is a Director of The Entrance Town Centre Management and participated in consideration of this matter.

Councillor Webster 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."*

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

**That Council endorse the extension of the existing cleaning contract to 31 March 2011 to allow the tender process to be completed.**

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

AGAINST: NIL

### **5.5 Access to Information Policy**

---

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

**That Council adopt the Access to Information Policy presented in this report.**

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

AGAINST: NIL

### **5.6 Formation of New Precinct Committee at Toukley, Norville and Canton Beach**

---

Councillor Matthews left the chamber at 8.24 pm and returned to the chamber at 8.25 pm during consideration of this item.

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

**That Council establish a Precinct Committee at the Toukley, Norville and Canton Beach Community.**

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

AGAINST: NIL

### **5.7 Amendment to Facilities and Expenses Policy**

---

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

- 1 That Council approve the draft Policy on Facilities and Expenses for Councillors as amended.**
- 2 That Council publically exhibit the amended Policy on Facilities and Expenses for Councillors for a period of 8 weeks.**

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

AGAINST: NIL

### **5.8 Results of Trial Winter Lifeguard Service**

A MOTION was MOVED by Councillor SYMINGTON and SECONDED by Councillor MATTHEWS:

- 1 That Council receive the report on Results of Trial Winter Lifeguard Service.
- 2 That given Council's current financial limitations, and the relatively low numbers of winter beach swimmers and surfers Council not introduce a recurrent lifeguard service at this time.
- 3 That Council receive a report on a possible Lifeguard Service at Soldiers and Shelly Beaches on Monday to Friday for four weeks after official close of the current season utilising Council's permanent lifeguards and liaise with Surf Life Saving Central Coast to provide a volunteer service on the weekends for that period.

AN AMENDMENT was MOVED by Councillor BEST:

That Council receive a report on deploying permanent lifeguards at no net cost to provide optimum service to selected high frequency beaches ie. Soldiers and Shelly Beaches.

**The AMENDMENT lapsed for want of a seconder.**

**RESOLVED on the motion of Councillor SYMINGTON and seconded by Councillor MATTHEWS:**

- 1 That Council receive the report on Results of Trial Winter Lifeguard Service.
- 2 That given Council's current financial limitations, and the relatively low numbers of winter beach swimmers and surfers Council not introduce a recurrent lifeguard service at this time.
- 3 That Council receive a report on a possible Lifeguard Service at Soldiers and Shelly Beaches on Monday to Friday for four weeks after official close of the current season utilising Council's permanent lifeguards and liaise with Surf Life Saving Central Coast to provide a volunteer service on the weekends for that period.

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

AGAINST: COUNCILLOR BEST



**5.9 Update on Central Coast Water Corporation formation**

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

- 1 That Council receive the report on the Central Coast Water Corporation formation.**
- 2 That a joint meeting of Gosford and Wyong Councils be scheduled for the 17 February 2011 to consider the Constitution and the Voting Shareholders Agreement.**
- 3 That Council endorse the Project Control Group study tour in January 2011.**

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

AGAINST: NIL

**5.10 Update on Developments at Halekulani Quarry and Toukley Closed Landfill**

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

Councillor Wynn declared a pecuniary interest in the matter for the reason that a family member is a resident in the affected area, left the chamber at 7:06 pm took no part in discussion, did not vote and returned to the chamber at 7:21 pm.

Mr Thomas Punton, resident of Budgewoi, against the item addressed the meeting at 7.09 pm, answered questions and retired at 7.11 pm.

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

***That Council defer this matter for further information as to the proposed consultation; trucking routes, frequency and times; construction period; and as to Halekulani the end result in terms of community amenity and recreation facilities.***

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

AGAINST: NIL

**5.11 Proposed Councillors' Community Improvement Grants**

---

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

***That Council allocate an amount of \$1,300.00 from the 2010-11 Councillors' Community Improvement Grants as outlined in the report.***

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

AGAINST: NIL

**6.1 Internal Audit Plan**

---

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

***That Council adopt the Internal Audit plan for the period 1 January 2011 to 31 December 2012.***

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

AGAINST: NIL

**7.1 Minutes - Central Coast Regional Organisation of Councils Meeting Minutes - 11 November 2010**

---

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

***That Council receive the minutes of the Central Coast Regional Organisation of Councils Meeting held on 11 November 2010 and adopt the recommendations contained therein.***

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

AGAINST: NIL

**7.2 Minutes - Gosford-Wyong Councils' Water Authority Board Meeting - 17 November 2010**

---

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

**That Council receive the minutes of the Gosford-Wyong Councils' Water Authority Board Meeting held on 17 November 2010 and adopt the recommendations contained therein.**

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

AGAINST: NIL

**7.3 Minutes - Wyong Shire Grants Committee Meetings - 22 October 2010 and 17 November 2010**

---

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that his wife is a performer in an event subject to a grant application, left the chamber at 8:54 pm took no part in discussion, did not vote and returned to the chamber at 8:57 pm.

Councillor Eaton vacated the chair and Councillor Graham assumed the chair.

Councillor Vincent declared a non-pecuniary insignificant conflict of interest in that part of the matter which refers to the Mannering Park Social Club and the Mannering Park Community Festival for the reason that he is a volunteer on the day at the Mannering Park Festival and participated in consideration of this matter.

Councillor Vincent stated:

*"I choose to remain in the Chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I am not a member of the Social Club or the Organising Committee."*

Councillor Wynn declared a non-pecuniary insignificant conflict of interest in that part of the matter which refers to the Mannering Park Social Club regarding the Mannering Park Community Festival for the reason that she is a resident of Mannering Park and participated in consideration of this matter.

Councillor Wynn 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."*

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

**That Council receive the minutes of the Wyong Shire Grants Committee Meeting held on 22 October 2010 and 17 November 2010 and adopt the recommendations contained therein.**

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

AGAINST: NIL

Councillor Eaton resumed the chair at 8.57 pm.

### **8.1 Information Reports**

---

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

***That Council deal with the following Information Reports by the Exception Method.***

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

AGAINST: NIL

### **8.2 Draft Central Coast Regional Transport Strategy**

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

***That Council receive the report on Draft Central Coast Regional Transport Strategy and note the submission prepared by Staff in response to the Draft Strategy.***

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

AGAINST: NIL

### **8.3 Warnervale Town Centre Progress Report**

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Councillor Graham left the meeting at 9:00 pm and returned to the meeting at 9:01 pm during consideration of this item.

Councillor Webster left the meeting at 9:03 pm and returned to the meeting at 9:04 pm during consideration of this item.

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

***That Council receive the report on Warnervale Town Centre Progress Report.***

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

AGAINST: NIL

#### **8.4 Completion of Two Major Contracts for the Mardi Suite of Works**

---

Councillor Best left the meeting at 5.47 pm and returned to the meeting at 8.18 pm and as a result took no part in voting.

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

**That Council note the report on Completion of Two Major Contracts for the Mardi Suite of Works.**

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

AGAINST: NIL

#### **8.5 Mardi to Mangrove Link Project Status**

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

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

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

AGAINST: NIL

#### **8.6 ESD and Architectural Improvements - Shelly Beach and Soldiers Beach Surf Life Saving Clubs**

---

*MOVED on the motion of Councillor WYNN and seconded by Councillor BEST:*

1 *That Council approve the environmental enhancements for \$142,000 (Shelly and Soldiers Beaches) and adjust the other three clubs' funding for refurbishments down to \$608,000.*

2 *That Council accept the relocation of the distribution board cupboard door at Soldiers Beach Surf Life Saving Club at nil cost.*

*AN AMENDMENT was MOVED by Councillor GRAHAM and SECONDED by Councillor MCNAMARA:*

*That Council receive the report on ESD and Architectural Improvements – Shelly Beach and Soldiers Beach Surf Life Saving Clubs.*

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

AGAINST: COUNCILLORS BEST AND WYNN

**The AMENDMENT was put to the vote and declared CARRIED. The AMENDMENT became the MOTION.**

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

***That Council receive the report on ESD and Architectural Improvements – Shelly Beach and Soldiers Beach Surf Life Saving Clubs.***

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

AGAINST: COUNCILLORS BEST AND WYNN

## **8.7 Outstanding Questions without Notice and Notice of Motions**

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

***That Council receive the report on Outstanding Questions without Notice and Notice of Motions.***

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

AGAINST: NIL

## **PROCEDURAL MOTION**

### **SUSPENSION OF ORDER OF BUSINESS**

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

***That Council adopt Notice of Motions 10.1, 10.2 and 10.3 on the motion of each Councillor who submitted them.***

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

AGAINST: NIL

## **10.1 Notice of Motion - Extension of Exhibition Period for the North Wyong Structure Plan**

---

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

- 1 That Council urgently write to the Premier, Kristina Keneally, the Minister for Planning, Tony Kelly and the Secretary for the Central Coast and Member for Wyong, David Harris requesting an extension for the exhibition period for the North Wyong Structure Plan to the end of February, 2011.**
- 2 That Council simultaneously request the exhibition period for Central Coast Conservation Strategy also close at the end of February 2011.**
- 3 That Council also request that submissions to both the North Wyong Structure Plan and the Central Coast Conservation Strategy be viewed in conjunction with the submissions for the Central Coast Transport Strategy.**

- 4 That Council **alert** the public through its media sources to these proposed Plans and exhibition timeframes and urge them, if they wish, to also protest the piecemeal approach taken by the government to these plans and strategies that form an holistic approach to development, conservation and transport for the Wyong Shire and similarly express their desire for an extension of the time so that their exhibitions coincide.
- 5 That Council **thank** the efforts of Kevin Armstrong and the Lakes Precinct Committee in bringing these issues to the attention of Council.

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

AGAINST: NIL

## **10.2 Notice of Motion - GIPA Submission**

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

***That Council make a submission to the consultation process currently being undertaken in relation to GIPA. Submission to reflect the views of Councillors in relation to the mandatory publishing of personal details on Council website.***

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

AGAINST: NIL

## **10.3 Notice of Motion - Discussions on Previous Minutes**

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

***That Council allow the reopening of, and discussion in relation to the minutes and business arising from the Ordinary Meeting of Council on Wednesday 13 October 2010.***

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

AGAINST: NIL

## **LEAVE TO INTRODUCE A MOTION OF URGENCY**

Councillor Vincent sought leave to introduce a motion of urgency regarding the National Health Agreement and health funding.

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

***That Council consider a motion of Urgency regarding the National Health Agreement and health funding.***

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

AGAINST: COUNCILLORS BEST, EATON, MCNAMARA AND WEBSTER

The Mayor ruled that the matter was of great urgency and could be introduced as a motion of urgency.

### **U23/10 National Health Agreement and Health Funding**

Councillor McBride declared a pecuniary interest in the matter for the reason that she is an employee of Northern Sydney Central Coast Area Health based primarily at Wyong Hospital, left the chamber at 9:50 pm took no part in discussion, did not vote and returned to the chamber at 9:54 pm.

*It was MOVED by Councillor VINCENT and SECONDED by Councillor MATTHEWS :*

- 1 *That Council note with concern the promise by NSW Opposition Leader, Barry O'Farrell to withdraw from the National Health Agreement if elected in March.*
- 2 *That Council note with concern that \$3m for "Acute Care Beds" and \$960,000 for new medical equipment including an ECG machine, a defibrillator and IT equipment for the Emergency Department would be lost from Wyong Hospital.*
- 3 *That Council write to Shadow Minister for the Central Coast Chris Hartcher, and Liberal Candidates for Wyong and The Entrance seeking an assurance that the Opposition, if elected in March, will support the national Health Agreement and not reduce funding and services at Wyong Hospital.*

FOR: COUNCILLORS MATTHEWS, SYMINGTON AND VINCENT

AGAINST: COUNCILLORS BEST, EATON, GRAHAM, MCNAMARA, WEBSTER AND WYNN

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

### **QUESTIONS WITHOUT NOTICE**

#### **Q112/10 Vandalism Cost to Ratepayers Councillor Best**

*The continuing escalation of anti social behaviour, malicious damage and graffiti spraying is taking a heavy toll on our residents and indeed our public property. Could you please advise our residents and ratepayers an indicative cost to them over the last four years to clean, repair and replace public property damaged by these vandals?*

#### **Q113/10 Policing Resources Councillor Best**

*As you would be aware, many residents have highlighted the urgent need for further Police. Unquestionably, our local Police are doing a good job with limited resources. Could you please advise in the most recent graduation and distribution of new police officers across NSW, how many were allocated to the Central Coast and in particular to the northern command?*



**PROCEDURAL MOTION****SUSPENSION OF ORDER OF BUSINESS**

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

***That Council suspend the order of business to discuss Item 10.3 – Notice of Motion – Discussions on Previous Minutes.***

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

AGAINST: NIL

Item 10.3 was then discussed.

**CONFIDENTIAL SESSION**

At this stage of the meeting being 9.59 pm Council moved into Confidential Session with the members of the press and public excluded from the meeting of the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action is taken in accordance with Section 10a of The Local Government Act, 1993 as the items listed come within the following provisions:-

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

**OPEN SESSION**

Council resumed in open session at 10.09 pm and the General Manager reported on proceedings of the confidential session of the ordinary meeting of council as follows:

**12.1 Contract CPA/187074 Provision of Project Management Services for the Mardi to Mangrove Link Project**

---

Councillor Wynn declared a pecuniary interest in the matter for the reason that a family member is a member of one of the tender teams, left the chamber at 9.59 pm took no part in discussion, did not vote and did not return to the chamber.

- 1 That Council defer its decision to award a contract until it next meets in February 2011 to allow time to consider alternative options.***
- 2 That Council endorse the continuation of the current project management arrangements due to the material public benefit.***

The Mayor, Councillor Eaton wished everyone the Compliments of the Season and thanked Councillors and staff for their effort over the past year.

The General Manager also thanked Councillors for their support over the past year.

**THE MEETING** closed at 10.13 pm.

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## 2.1 DA/1285/2010 - Proposed Torrens Title Subdivision located at 3 Cochrane Avenue, Canton Beach

---

TRIM REFERENCE: DA/1285/2010 - D02459437  
AUTHOR: Stephanie Van Dissel, Development Planner  
MANAGER: Scott Rathgen, Team Coordinator

### SUMMARY

An application has been received for a Torrens Title Subdivision of an existing dual occupancy building at 3 Cochrane Avenue, Canton Beach. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report. The application is recommended for approval.

The reason this application is reported to Council is a result of a directive, by the Department of Planning (DOP) to all NSW Councils, that any applications that rely on a numerical variation under State Environmental Planning Policy No 1 (SEPP1) greater than 10% be reported to full Council for determination.

<b>Applicant</b>	Rolls & Associates Surveyors
<b>Owner</b>	Mr P C & Ms CM Thompson
<b>Application No</b>	DA/1285/2010
<b>Description of Land</b>	3 Cochrane Avenue (Lot 17 DP 20961) CANTON BEACH
<b>Proposed Development</b>	Two Lot Subdivision
<b>Site Area</b>	752.5m <sup>2</sup>
<b>Zoning</b>	2A Residential
<b>Existing Use</b>	Dual Occupancy Development
<b>Employment Generation</b>	N/A
<b>Estimated Value</b>	N/A

### RECOMMENDATION

- 1** *That Council, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, grant consent subject to the conditions detailed in the schedule attached to the report.*
- 2** *That Council vary Clause 42D of Wyong Local Environmental Plan 1991 to permit the development.*
- 3** *That Council assume the concurrence of the Director-General of the Department of Planning for the use of State Environmental Planning Policy No 1 to vary the development standard of Clause 42D of Wyong Local Environmental Plan 1991 to permit the proposed development.*

**PRECIS**

- The application is for the Torrens Title Subdivision of an existing dual occupancy building.
- The site is zoned 2(a) Residential under the provisions of Wyong Local Environmental Plan 1991 (WLEP1991).
- Should the development application for the existing dual occupancy buildings included the subdivision of the buildings, Clause 42D(b) of WLEP1991 would have permitted the subdivision without reference to a variation of the minimum lot size.
- As the application for subdivision is separate to the application for the dual occupancy development, the proposal requires assessment using the provisions of SEPP1 to vary Clause 42D of WLEP1991.
- As a result of a directive by the DoP to all NSW Councils, any applications that rely on a SEPP1 variation greater than 10% are required to be reported to full Council for determination.

**INTRODUCTION****The Site**

The site is located at 3 Cochrane Avenue, Canton Beach, approximately 50 metres south of the Toukley Sports Field and Bowls Club. The property comprises approximately 16m of road frontage to Cochrane Avenue, is rectangular, relatively level and has a site area of 752.5m<sup>2</sup>.

A detached dual occupancy development was approved under DA 2421/2003 on 22 September 2003 – this has since been built and had a final Occupation Certificate issued.

A common driveway extends along the southern boundary, providing access to both dwellings – this is proposed as a right of carriage way under the subject proposal (Refer Figure 1 & 2).



Figure 1: Aerial photograph of 3 Cochrane Ave, Canton Beach and surrounds



Figure 2: Subject site street frontage

### The Locality

The locality contains numerous dual occupancy developments and subsequent subdivisions, a few of these being located at 6, 7 and 4 Cochrane Ave.

**The Proposed Development**

The proposal consists of a 2 Lot Torrens Title Subdivision in relation to an existing dual occupancy development involving the following aspects:

- Lot 171 = 426.7m<sup>2</sup> & Lot 172 = 329.2m<sup>2</sup>;
- Right of Carriage Way along southern boundary; and
- Easement for services, water, sewer (Refer Figure 3).

The two existing lots are currently zoned Residential 2(a) and the proposed subdivision requires a SEPP 1 Objection to be supported by Council to vary the development standard contained within Clause 42D of WLEP1991. This development standard requires a minimum lot size of 450m<sup>2</sup> in the 2(a) Residential zone. The applicant has submitted a formal SEPP1 objection as part of the development application.

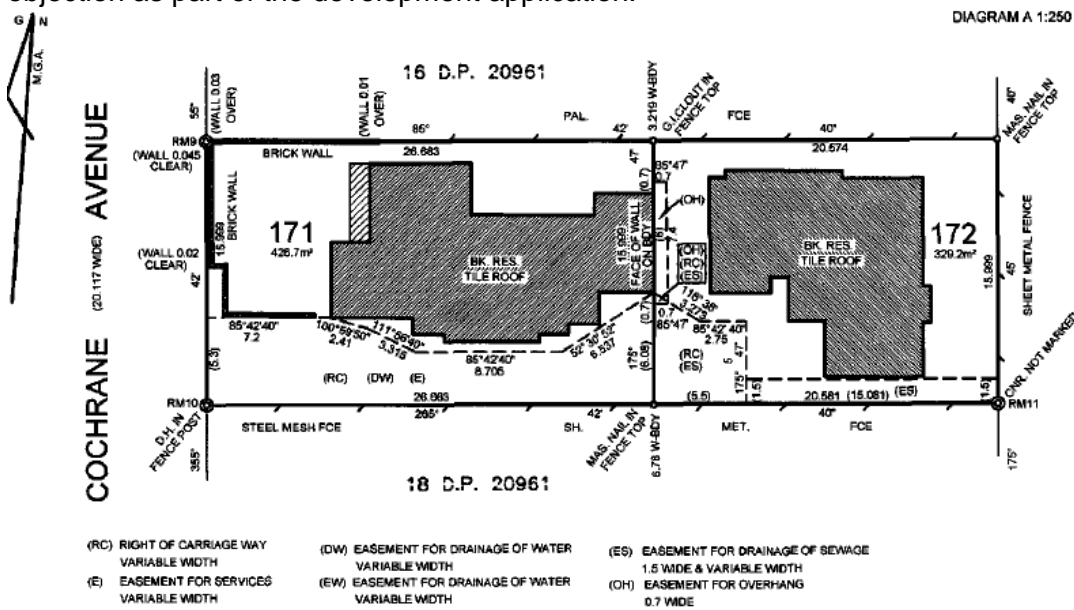


Figure 3: Proposed subdivision

**Integrated Referrals - Mine Subsidence Board**

Pursuant to Section 91 of the EP&A Act 1979, [Integrated Development Provisions], the proposal has been approved and stamped by the Mine Subsidence Board (MSB) on 21 October 2010.

**VARIATIONS TO POLICIES**

WLEP	Wyong Local Environmental Plan 1991
Clause	42D
Standard	Minimum lot size of 450m <sup>2</sup>
Departure to standard	Lot 171 = 5% (23.3m <sup>2</sup> ) Lot 172 = 27% (120.8m <sup>2</sup> )
Basis for departure	Dual-Occupancy building exists

## BACKGROUND

DA/2421/03 for a Dual Occupancy was approved 22 September 2003. A final Occupation Certificate was issued on 22 March 2005.

## PERMISSIBILITY

The subject site is zoned 2(a) Residential under the WLEP1991.

Subdivision (including boundary adjustment) is defined under Section 4B – *Subdivision of land* under the EP&A Act 1979.

Although not specifically defined within Clause 7 – *Definitions* under the WLEP 1991, the development is referred to as “Subdivision” pursuant to Clause 13 of the WLEP 1991 and is permitted with consent.

## OBJECTIVES OF THE ZONE

Clause 2(3) of the WLEP 1991 stipulates that the consent authority must have regard to the objectives for a development in a zone when determining a development application in respect of land within the zone. The following objectives of the 2(a) Residential Zone are:

- (a) *to provide land primarily for detached housing generally not exceeding a height of 2 storeys and with private gardens in an environment free from commercial and other incompatible activities and buildings, and*
- (b) *to provide for other uses, but only where they:*
  - (i) *are compatible with the residential environment and afford services to residents at a local level, and*
  - (ii) *are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing, and*
- (c) *to provide for home-based employment where such will not:*
  - (i) *involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or*
  - (ii) *have a material adverse impact on residents.*

The proposal involves the subdivision of an existing dual occupancy development which will essentially create two detached dwellings and is therefore consistent with the stated objectives of the 2(a) Residential Zone.

## RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- State Environmental Planning Policy 1 (Development Standards)

- State Environmental Planning Policy 71 (Coastal Protection)
- Wyong Local Environmental Plan 1991
- Development Control Plan 2005: Chapter 66 (Subdivision)
- Development Control Plan 2005: Chapter 67 (Engineering Requirements)
- Contributions Plan No.6 – Toukley District
- NSW Sea Level Rise Policy Statement, Department of Environment, Climate Change and Water

### **ECOLOGICALLY SUSTAINABLE PRINCIPLES**

The proposal has been assessed having regard to Ecologically Sustainable Development principles and is considered to be consistent.

The proposed dual occupancy subdivision does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

### **ASSESSMENT**

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 1979 and other statutory requirements and Council's policies, the assessment has identified the following key issues, which are elaborated upon for Council's information.

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

#### **State Environmental Planning Policy 71 (Coastal Protection)**

The provisions of SEPP No 71- Coastal Protection requires Council consider the Aims and Objectives of SEPP 71 together with the matters for consideration listed in Clause 8 of the SEPP when determining an application within the Coastal Zone. The Coastal Zone is an area defined on maps issued by the DoP NSW. The subject property falls within the Coastal Zone, however is not located within the "sensitive 100 metre zone".

The Aims and Objectives and the matters listed under Clause 8 have been considered and the proposal is considered to comply with the provisions of the SEPP.

#### **Wyong Local Environmental Plan 1991**

Clause 42D provides the following:

*"42D The Council shall not consent to the subdivision of land within Zone No 2 (a) or 2 (e) to create two or more allotments one or both of which, or a number of which, have an area of less than 450 square metres unless the consent:*

*(a) is for the subdivision of land on which a dual occupancy building or detached dual occupancy was erected with consent pursuant to a development application lodged with the Council prior to 5 November 1997, or*



*(b) in the case of land within Zone No 2 (a), is granted concurrently with a development consent for a dual occupancy building or a detached dual occupancy on the same land and the subdivision will be carried out in conjunction with the dual occupancy development.”*

The proposed subdivision will create lots with areas less than 450m<sup>2</sup>. The dual occupancy development was consented to in 2003. The subdivision was not proposed to be undertaken concurrently with the dual occupancy development and as such, a SEPP 1 Objection is now required to enable the subdivision to be assessed and determined by way of a variation to the development standard.

### **State Planning Policy No 1 – Development Standards**

The aims and objectives of SEPP 1 are to provide flexibility in the application of planning controls operating by virtue of development standards, in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

Clause 6 of SEPP 1 requires the applicant to provide a written objection to the development standard indicating why compliance with the standard is unreasonable or unnecessary in the circumstances of the case and to specify the grounds of the objection.

The applicant has submitted a formal SEPP 1 objection requesting Council's support to exercise the powers available to the Council under the provisions of SEPP 1 to vary the 450m<sup>2</sup> minimum lot size development standard. This would enable consent to be granted to the proposed subdivision of the dual occupancy buildings in the 2(a) Residential zone. The SEPP 1 objection provides the following grounds for the objection:

- *The proposed subdivision layout is based on Council's approved development for the Dual Occupancy approved under DA/2421/2003;*
- *No environmental impact will result from the subdivision as it is purely a “paper” entity created to define the boundaries for the buildings which have been approved and erected on the land;*
- *The proposed subdivision will not prejudice the residential environment;*
- *The proposed subdivision will not result in any additional traffic generation;*
- *The percentage variation is small and is irrelevant as construction of the dwellings has satisfied all of Council's relevant controls for this type of development;*
- *No additional housing entitlement would be created by the subdivision;*
- *No additional development rights would be created by the subdivision; and*
- *Dual occupancy development is permissible within the 2(a) zone and this subsequent paper subdivision only formalises what has already been approved and constructed.*

The applicant states that strict compliance with the 450m<sup>2</sup> minimum lot size development standard is unreasonable for reasons detailed above.

In addition to the above, his Honour, Justice Lloyd, outlined five questions in *Winten Property Group Ltd v North Sydney Council* [2001] NSW LEC 24 that should be considered when preparing and considering a SEPP 1 objection. Council, in exercising its function as a consent authority, must be satisfied of all five matters before it upholds a SEPP 1 objection. Satisfaction of all five questions identified in the *Winten* case ensures that a SEPP 1 objection is well founded and that strict compliance with a development standard is unreasonable or unnecessary.

The five questions and the requisite responses are as follows:

*1. Is the planning control in question a development standard?*

Clause 42D of the WLEP 1991 is a provision within an environmental planning instrument which regulates the subdivision of land by imposing a minimum area lot size. It is therefore a development standard pursuant to Section 4 of the EP&A Act 1979.

*2. What is the underlying object or purpose of the standard?*

The purpose of Clause 42D is to provide residential housing and maintain the residential character of the 2(a) Residential zone by limiting the minimum size of new lots created through subdivision of existing parcels.

Single detached dwellings and dual occupancy developments are then permissible on lots created in compliance with the 450m<sup>2</sup> minimum lot size. Clause 45D further provides that dual occupancy subdivision applications lodged prior to 5<sup>th</sup> November 1997 for existing dual occupancy buildings or subdivisions applied for concurrently with the dual occupancy development are also eligible for approval within the 2(a) Residential Zone irrespective of the 450m<sup>2</sup> minimum lot size.

*3. Is compliance with the development standard consistent with the aims of the Policy, and in particular, does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5 (a) (i) and (ii) of the Act?*

Clause 3 of SEPP 1 states that non-compliance with a development standard must not hinder the attainment of the objects specified in Section 5 (a)(i) and (ii) of the EP&A Act, 1979. Section 5 of the EP&A Act 1979 states:

*“The objectives of this Act are;*

*(a) to encourage*

- i. the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, town and villages for the purposes of promoting the social and economic welfare of the community and a better environment;*

- ii. *the promotion and co-ordination of the orderly and economic use and development of the land.”*

The proposed non-compliance with Clause 42D will not hinder the attainment of the objectives of the Act. To enforce strict compliance with Clause 42D in this instance would unreasonably prevent the orderly and economic management and use of the land and the buildings. The proposed non-compliance will strengthen the locality's social and economic welfare by facilitating modern residential development within the locality and by increasing housing supply and housing diversity by the creation of separate land title over each dwelling-house.

The non-compliance with the numerical requirement of the minimum lot size of 450m<sup>2</sup> will not result in development that is inconsistent with the aims and objectives of the WLEP1991. The subdivision of the land will complement the orderly development of the land and complement the surrounding residential area. There are currently a significant number of dual occupancy developments approved for subdivision within the Wyong Shire with several located in proximity to the subject properties.

*4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

The SEPP 1 objection has demonstrated that the non-compliance in this instance does not jeopardise the amenity, streetscape character or orderly development within the local area. The site already has a dual occupancy building approved and erected on it. Strict compliance with Clause 42D is not considered appropriate in this instance for the abovementioned reasons.

To prevent the subdivision of the dual occupancy building merely because the proposed lots do not satisfy a numerical requirement would be unreasonable given that the dual occupancy development already exist on site. It would also be unreasonable given that if the applicant had sought approval for subdivision of the dual occupancy building at the time consent was sought for the dual occupancy, consent could have been granted without reference to the 450m<sup>2</sup> minimum lot size.

*5. Is the objection well founded?*

The objection is well founded because the proposed subdivision will enable the orderly and economic approved use of the land. In contrast, the strict application of the minimum lot size development standard in this instance would be unachievable and would have the opposite impact, that is, work against the orderly and economic use of the land and the existing buildings.

**Development Control Plan 2005: Chapter 66 (Subdivision)**

Clause 2.6.e of Chapter 66 states:

*“2.6e Where kerb and guttering, associated street drainage, pavement construction and foot paving across the street frontages does not currently exist, they shall be required to be constructed as part of the subdivision works, unless:*

- *It is technically impractical to construct kerb and guttering due to uncertainty as to the appropriate levels to be adopted or an isolated section will present a hazard to road traffic safety; or*
- *The street drainage necessary to provide kerb and guttering is an unreasonable imposition on the development; or*
- *An alternative treatment is preferred by Council having regard to Water Sensitive Urban Design (WSUD) principles; or*
- *Kerb and guttering is not the most suitable streetscape treatment for the area on the basis of existing and anticipated development.”*

Comment: Given that the development is already constructed, further treatment to the street drainage system is not warranted.

The frontage to the property is currently not kerb and guttered. It is considered in the circumstances to be unreasonable to impose a requirement of this development application for kerb and guttering of the street frontage as the proposal simply involves the creation of separate land title for each dwelling-house. There is no ‘nexus’ between the subdivision proposal and the requirement for the provision of kerb and guttering.

**THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b) ):*****The relationship to the regional and local context and setting***

As no physical building works are proposed and no additional vacant building allotments, the subject application will have no impact on the regional or local context and setting.

***The access, transport and traffic management measures***

No issues to report.

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

No issues to report.

***The impact on utilities supply.***

No issues to report.

***The effect on heritage significance.***

No issues to report.

***Any effect on other land resources.***

No issues to report.

***Any impact on the conservation of water.***

No issues to report.

***Any effect on the conservation of soils or acid sulphate soils.***

No issues to report.

***Any effect on quality of air and microclimate conditions.***

No issues to report.

***Any effect on the flora and fauna.***

No issues to report.

***The provision of waste facilities.***

No issues to report.

***Whether the development will be energy efficient.***

No issues to report.

***Whether the development will cause noise and vibration.***

No issues to report.

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

The site is subject to mine subsidence with the MSB issuing approval on 21 October 2010.

The land is not affected by flooding or bushfire.

***Any risks from technological hazards.***

No issues to report.

***Whether the development provides safety, security and crime prevention.***

No issues to report.

***Any social impact in the locality.***

The proposed subdivision will assist in the orderly and economic development of Canton Beach by providing an alternative dwelling style within an area dominated by single detached dwellings. For this reason the proposed subdivision is seen to add to the social fabric of the area by providing an alternate living arrangement possibility. Unit development with smaller courtyard gardens adds a lower maintenance accommodation choice to a population where approximately 45.5% are over the age of 65 (Australia's average being 13.3%).

***Any economic impact in the locality.***

The proposed subdivision will allow the creation of separate titles and therefore the saleability of the individual dwellings.

***Any impact of site design and internal design.***

No issues to report.

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

No issues to report.

***Any cumulative impacts.***

No issues to report.

**THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):*****Whether the proposal fits in the locality.***

The application is for the "paper" Torrens Title Subdivision of an existing dual occupancy development which has previously been assessed as fitting within the locality. The proposed subdivision will have no impact on that original assessment.

***Whether the site attributes are conducive to development.***

The application is for the "paper" Torrens Title Subdivision of an existing dual occupancy development. The issue of whether the site attributes were conducive to the original dual occupancy proposal was assessed at the time when the original consent was granted. The proposed subdivision will have no impact on that original assessment.

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

The application was not required to be advertised in accordance with DCP 2005 Chapter 70- Notification of Development Proposals, Clause 2.4 as a dual-occupancy has previously been approved and developed on the site.

***Any submission from public authorities.***

The subject site falls within a declared mine subsidence district and therefore requires approval by the MSB as "integrated development" as defined in the EP & A Act 1979. In recognition of this the applicant sought and obtained approval from the MSB. The MSB's approval is subject to two requirements, these being:

- (a) the number, size and boundaries of lots being substantially the same as shown on the approved plan; and
- (b) notification being made to the Board of any changes to lot numbering and of the registered DP number.

These are not required to be added as conditions of consent.

**THE PUBLIC INTEREST (s79C(1)(e)):*****Any Federal, State and Local Government interests and community interests.***

The proposed subdivision of the existing dual occupancy development is considered to be in the public interest by facilitating housing that will add to the range of housing options for the local community.

**OTHER MATTERS FOR CONSIDERATION**

The site falls within the operation of Council's adopted Contributions Plan No 6 – Toukley District. When Council granted development consent in 2003 for the dual occupancy building, it imposed Section 94 contributions for each of the additional dwellings in accordance with this contributions plan. Council's records show that the appropriate contribution has been paid. The current subdivision proposal does not create any additional housing entitlement and does not create any increased demand on services and, as a consequence, no additional contributions are applicable to the proposed subdivision.

**CONCLUSION**

The proposed development is for the Torrens Title subdivision of a recently constructed dual occupancy building. The development requires a SEPP1 objection to the minimum lot size development standard contained in Clause 42D of WLEP1991. The objection is supported given that compliance with the development standard is considered unreasonable and unnecessary in this instance. The application is therefore recommended for consent subject to appropriate conditions.

**ATTACHMENTS**

- |   |                                   |           |
|---|-----------------------------------|-----------|
| 1 | Draft Conditions                  | D02503023 |
| 2 | SEPP 1 Objection                  | D02459444 |
| 3 | Plan of Proposed Subdivision (A3) | D02459447 |

**Date:** 28 January 2011  
**Responsible Officer:** Stephanie Van Dissel  
**Location:** 3 Cochrane Avenue, CANTON BEACH NSW 2263  
Lot 17 DP 20961  
**Owner:** Mr P C Thompson and Ms C M Thompson  
**Applicant:** Rolls & Assoc Surveyors  
**Date Of Application:** 27 October 2010  
**Application No:** DA/1285/2010  
**Proposed Development:** 2 Lot Subdivision  
**Land Area:** 752.50

#### PROPOSED CONDITIONS

- 1 The development taking place in accordance with the approved development plans reference number DA 1285/2010, Surveyors Reference No 10134, Sheet 1 of 1 prepared by Mark Anthony Rolls dated 27 October 2010, except as modified by any conditions of this consent, and any amendments in red.

### **Prior to Release of Construction Certificate:**

*The following conditions must be satisfied prior to the release of the Construction Certificate. Conditions may require the submission of additional information with the Construction Certificate Application. Applicants should also familiarise themselves with conditions in subsequent sections and provide plans in accordance with any design requirements contained therein.*

#### **Certificates/Engineering Details**

- 1 The provision of additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development at no cost to Council. Design plans are to be approved by the Roads Authority prior to the issue of a Construction Certificate.

### **Prior to Commencement of Works:**

*The following conditions must be satisfied prior to the commencement of site works, including any works relating to demolition, excavation or vegetation removal.*

No Conditions



## **Prior to Release of Subdivision Certificate:**

***The following conditions must be satisfied prior to the release of an Occupation / Subdivision Certificate.***

### **Certificates/Engineering Details**

- 2 A Subdivision Certificate is to be issued by the Certifying Authority prior to the registration of the plan of subdivision. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
- 3 The provision of Works as Executed information as identified in Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development prior to issue of the Occupation Certificate. The information is to be submitted in hard copy This information is to be approved by Council prior to issue of the Subdivision Certificate.
- 4 Separate water services and sewer junctions are required for each lot within a Torrens Title subdivision prior to issue of the subdivision certificate.

## **Ongoing Operation:**

***The following conditions must be satisfied during use / occupation of the development.***

No Conditions

Attachment 2: Objection to Development Standard SEPP 1

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# Rolls & Associates Surveyors

*Consulting Land and Engineering Surveyors*

## **SEPP 1 OBJECTION**

**LOT 17 DP 20961**

**3 COCHRANE AVENUE**

**CANTON BEACH**

**CONTACT DETAILS :**

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The Institution of Surveyors NSW

Surveying & Spatial Sciences Institute

The Association of Consulting Surveyors

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## 1. SEPP 1 OBJECTION

### 1.1 PROVISION OF CLAUSE 42 (D), WSC LEP 1991

The statutory provisions of Clause 42 contain a subdivision development standard (i.e. 450m<sup>2</sup> minimum lot size) that impedes the current proposal. We seek Council's support to exercise the powers available under SEPP 1 with the assumed concurrence of the Director of the Department of Planning to vary the standard to enable consent to be granted to the subject application for a two lot Subdivision in land zoned 2(a).

### 1.2 THE INTENT OF THE DEVELOPMENT STANDARD

The development standard was intended to support the objective of the zone. For the subject property, the 2 (a) Residential Zone was selected:

- (a) To provide land primarily for detached housing generally not exceeding a height of 2 storeys and with private gardens in an environment free from commercial and other incompatible activities and buildings, and
- (b) To provide for other uses, but only where they:
  - (i) Are compatible with the residential environment and afford services to residents at a local level, and
  - (ii) Are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing, and
- (c) To provide for home-based employment where such will not:
  - (i) Involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or
  - (ii) Have a material adverse impact on residents.

### 1.3 THE PRINCIPLE OF SEPP 1

State Planning Policy No. 1 is a document of State-Wide significance, which gives Directions or devolves control on a State-Wide level. SEPP 1 came into force in October 1980 with the express intent to provide flexibility in the application of planning controls in Local Environmental Plans (LEP's) (development standards) where strict compliance with the standard is unreasonable or unnecessary. The most recognised aspect of SEPP 1 is the greater flexibility in application of LEP controls, which in turn reduce the need for councils to prepare minor draft LEP's to vary development standards.

The thrust behind SEPP 1 is to avoid the creation of unnecessary draft LEP's specifically designed to allow for variation of development standards, where these standards are considered unreasonable or unnecessary in the circumstances of the case. SEPP 1 is recognised as the appropriate mechanism for such variations in the approval process.

In this instance, once the objection under SEPP 1 is supported and development consent granted; the proposal may proceed without the necessary cumbersome exhibition and statutory requirements of gazette under the Local Environmental Plan process.

#### 1.4 APPLICATION OF SEPP 1 OBJECTIONS

Clause 3 of the Policy clearly identifies the aim as being to provide flexibility in the application of planning controls.

SEPP 1 may be invoked where it can be demonstrated that strict compliance with the relevant standards is unreasonable or unnecessary and would tend to hinder the objects specified in Section 5 (a) (i) and (ii) of the Environmental Planning and Assessment Act 1979 (EP&A).

The objects specified in Section 5 of the Act and the relevant objectives in this instance are to encourage:

"QUOTE ....."

- (i) A proper management, development and conservation of natural and man-made resources including agricultural land, natural areas, forests, minerals, water, cities, towns, and villages for the purpose of promoting the social and economic welfare of the community and better environment.
- (ii) The promotion and co-ordination of the orderly and economic use and development of land
- (vi) The protection of the environment etc ; and
- (vii) Ecologically sustainable development.

".....END OF QUOTE"

With respect to these objectives, my Application for a two lot Subdivision has demonstrated that:

- ❖ The proposed Subdivision Layout is based on Council's approved development for the Dual Occupancy defined in Development Application No. 2421/2003.
- ❖ No environmental impact will result from the Subdivision, as it is purely a paper entity created to define boundaries for the physical buildings, which have already been approved and constructed on the land.

Furthermore:-

- ❖ The nature of the zoning of 2 (a) land is such that Dual Occupancy Development is permitted. Therefore as the creation of a two lot Subdivision resulting from the Dual Occupancy Development only formalises on paper what is already approved and constructed, strict compliance with the Development Standard is unreasonable.

Since the inception of the E.P.& A. Act in 1979 and the introduction of SEPP 1 in October 1980, a clear direction has emerged in the decision making process surrounding development, i.e. "Flexible Planning".

The Land and Environment Court have endorsed the approach that each case should be determined on its merits. The individual merits of the current proposal have been outlined in this submission.

## 1.5 FEATURES SURROUNDING THE USE OF SEPP 1

Specific features surrounding the use of SEPP 1 that are relevant to the subject objection can best be Summarised by the following points:

- ❖ (a) It must be proved that the requirement is a Development Standard.
- (b) The objection lodged by the applicant demonstrates that compliance with the standard in the circumstances is unreasonable and unnecessary.
- (c) The objection is well founded.
- (d) That the granting of consent is consistent with the aims of SEPP 1. Namely to provide flexibility in the application of planning controls operating by virtue of Development Standards in circumstances where strict compliance with those standards would in any particular case be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5 of the Act and summarised above.

- ❖ With respect to the definition of the term "Development Standard" this can be found under Section 4 of the Act and is set out below in so far as it relates to Clauses 42 of the Wyong LEP 1991.

"QUOTE ....."

"Development Standards" means provision of an environmental planning instrument in relation to the carrying out of development, including, but without limiting the generality of the foregoing requirements or standards in respect of :

- (a) The area, shape or frontage of any land, the dimension of any land, building or works, or the distance of any land, building or work, from specified point.
- (b) The proportion or percentage of the area of a site which a building or work may occupy,
- (c) The intensity or density of the use of any land, building or work,"

".....END OF QUOTE"

- ❖ The provisions may only be exercised where the objection would not undermine the fundamental planning controls in an Environmental Planning Instrument so that it was tantamount to an amendment to that instrument.
- ❖ It is assumed for the purpose of the objection that the standard in question is appropriate and proper to be applied in general in a Council's area.

- ❖ What is required of the authorities whether it be Council or the court in its consideration is whether compliance with a Development Standard is unreasonable or unnecessary in the circumstances of the case. SEPP 1 does not mention "minor" or "major" variations.

## 1.6 OBJECTION TO DEVELOPMENT STANDARDS UNDER THE PROVISIONS OF SEPP No.1 OF WSC LEP 1991 (AS AMENDED)

### (1) NAME AND ADDRESS OF OBJECTORS

*Paul Thompson  
5 Myra Place  
INGLEBURN NSW 2565*

### (2) PROPERTY DESCRIPTION

*Lot 17 DP 20961  
3 Cochrane Avenue  
Canton Beach*

### (3) PROPOSED DEVELOPMENT AND/OR USE

*Two Lot Subdivision.*

### (4) DEVELOPMENT STANDARD TO WHICH THE OBJECTION RELATES

*The Development Standard to which the objection relates is the restriction on a minimum allotment size of 450m<sup>2</sup> created from the subdivision of land in the 2(a) Residential Zone*

### (5) ENVIRONMENTAL PLANNING INSTRUMENT WHICH SPECIFIES THE DEVELOPMENT STANDARD

*Clause 42 (D) (b) of Wyong Shire Council LEP 1991 (as amended). Which defines the minimum subdivision requirement of the 2(a) Residential Zone to be 450m<sup>2</sup>.*

### (6) PROPOSED VARIATION TO DEVELOPMENT STANDARDS

*The Development Standard for which variation is sought relates to the 450m<sup>2</sup> minimum subdivision allotment area within the 2(a) Zone.*

*The proposed subdivision relates to the creation of allotments containing 426.7m<sup>2</sup> and 329.2m<sup>2</sup> from an existing parcel containing 755.9m<sup>2</sup>. These are a variation to the standard of Clause 42 (D) (b) which stipulates a 450m<sup>2</sup> minimum area.*

### (7) GROUNDS OF OBJECTION TO DEVELOPMENT STANDARD

- ❖ The underlying intention of the standard is reflected in the objectives for the zone, which is mainly to provide residential housing. Strict compliance with Clause 42 (D) is not considered appropriate in this instance because the subdivision proposal:-
  - (a) Will not prejudice the residential environment;
  - (b) Will not generate additional traffic having regard to existing dwelling entitlements approved with the Dual Occupancy Development;

- (c) Is a result of an existing approved and constructed housing development for Dual Occupancy;
  - (d) The percentage variation to the 450m<sup>2</sup> minimum development standard is small and in fact not relevant, as the construction of the two dwellings has satisfied all of Council's Development Standards for Dual Occupancy Development.
- ❖ The proposal compliments existing property development and simply formalises future Title ownership.
- (a) No additional development rights are being created by the Subdivision.
  - (b) No additional housing entitlements are created by the Subdivision.

## 2. CONCLUSION

It is our professional opinion that the proposal to undertake a two lot Subdivision of the existing parcel as illustrated in my Application and described within this report, is consistent with the underlying objectives of the Wyong Shire LEP for the 2(a) Residential Zone. Particularly, having regard to the approved buildings that exist on the current parcel.

The proposal will not compromise the objectives of the zone or have a significant impact on the environment of the locality, particularly when one considers.

- ❖ The location and size of the existing parcels;
- ❖ The design and construction of the proposed new allotments in accordance with approved D.A. plans.
- ❖ The surrounding development and existing physical and environmental features;
- ❖ The ability of each allotment to sustain development including ability to dispose of waste and provide services and the overall negligible environmental impact of the proposal.



The Development Standard set out in Clause 42 (D) (b) of the Wyong Shire Council LEP 1991, imposes a planning standard that serves to prohibit the proposed Subdivision. This situation is a recognised anomaly within the LEP. However the proposal complies with the criteria for SEPP 1 objections, stipulated by the Director of the Department of Planning for variation to the Development Standard when considering Subdivisions in that:

- ❖ The Subdivision simply defines boundaries relative to approved and constructed dual occupancy buildings.
- ❖ The 450m<sup>2</sup> minimum development standard is not relevant, as Council has approved construction of the Dual Occupancy Development and the resulting individual open space areas and associated access requirements.
- ❖ The existing residential amenity is not compromised.

In this instance we contend that strict compliance with the Development Standard is unnecessary and unreasonable and would tend to hinder the attainment of the objects of the Act.

It is therefore requested that Council support the application and invoke the powers available under SEPP 1 by assuming the concurrence of the Director of the Department of Planning and grant consent to the application.

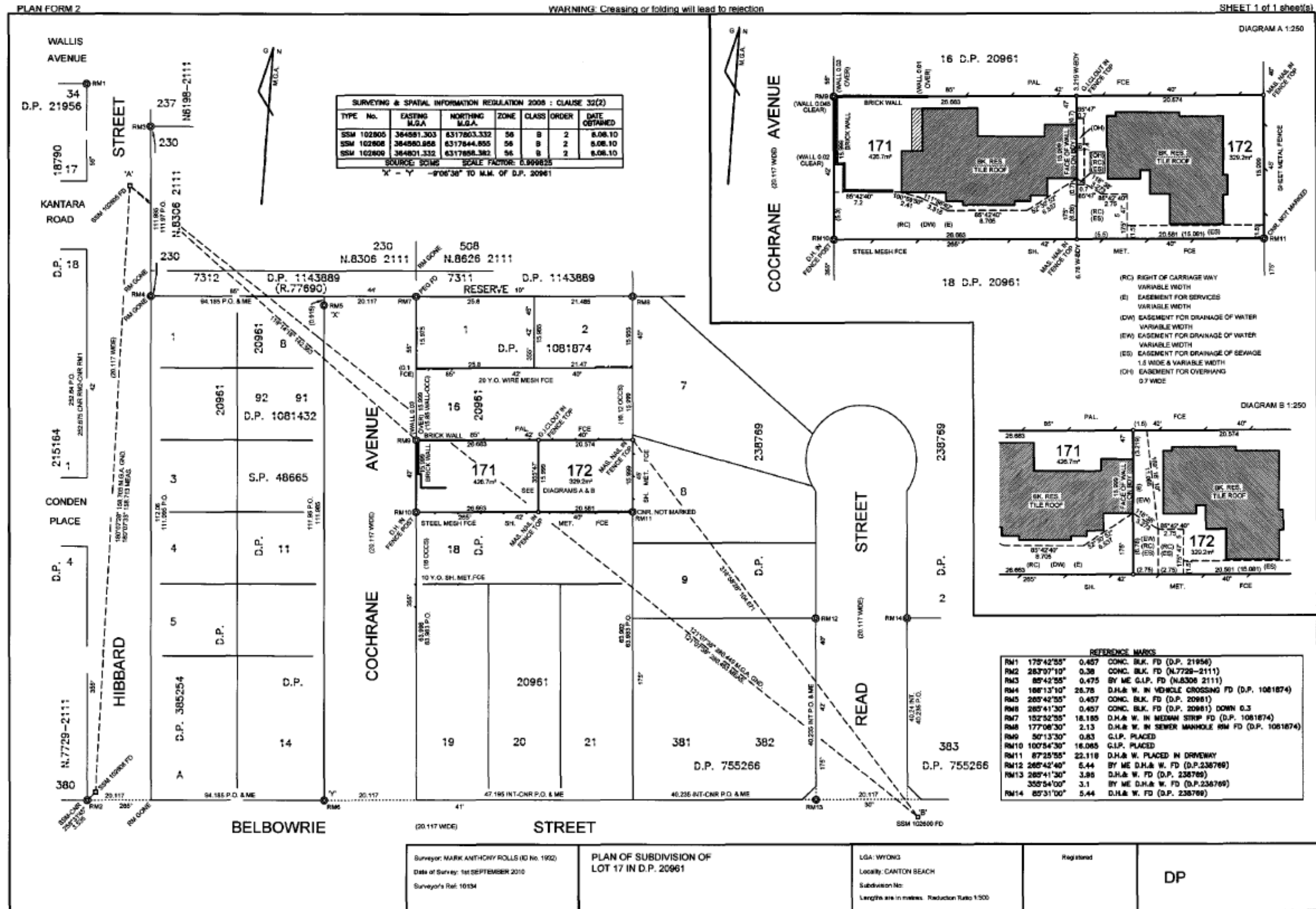
Yours Faithfully,



M.A. Rolls

Surveyor Registered under  
The Surveying and Spatial Information Act, 2002

Attachment 3: Plan of Proposed Subdivision



## 2.2 DA/893/2010 Proposed Boundary Adjustment at Ourimbah

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TRIM REFERENCE: DA/893/2010 - D02459668  
AUTHOR: Mark Greer, Senior Development Planner  
MANAGER: Scott Rathgen, Team Coordinator

### SUMMARY

An application has been received for the adjustment of the common boundary between two parcels of land at Ourimbah. The application has been examined having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment (EP&A) Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The application is reported to Council as a result of a directive by the Department of Planning (DoP) to all NSW Councils, that any development applications that rely on a numerical variation to State Environmental Planning Policy No 1 (SEPP1) greater than 10% be reported to full Council for determination.

<b>Applicant</b>	Cahill and Cameron Pty Ltd
<b>Owner</b>	Lot 1: Sharplan Pty Ltd (form. Palmdale Service Centre Pty Ltd) Lot 5: Alan and Wendy Watt
<b>Application No</b>	893/2010
<b>Description of Land</b>	Lot 1 DP 1104659 No 207 Pacific Highway, Ourimbah Lot 5 DP 738176 No 225 Pacific Highway, Ourimbah
<b>Proposed Development</b>	Boundary Adjustment
<b>Site Area</b>	Lot 1 = 2,789m <sup>2</sup> Lot 5 = 9,513m <sup>2</sup>
<b>Zoning</b>	7(b) Scenic Protection
<b>Existing Use</b>	Lot 1: vacant Lot 5: residence

### RECOMMENDATION

- 1** *That Council, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, grant consent subject to the conditions detailed in the schedule attached to the report.*
- 2** *That Council assume the concurrence of the Director General of the Department of Planning for the use of State Environmental Planning Policy No 1 to vary the development standard of Clause 13(3)(b) of Wyong Local Environmental Plan 1991 to permit the proposed development.*

## PRECIS

- Application involves the adjustment of the common property boundary between two allotments at Ourimbah. The subdivision standards in Council's Planning Instrument apply to the proposal.
- The subject allotments are zoned 7 (b) Scenic Protection.
- The applicant proposes the use of SEPP 1 to vary the subdivision standards of Wyong Local Environmental Plan 1991 (WLEP). The variation is 22% to the development standard.
- Council delegation extends to assuming concurrence of the Director General of the DoP for the use of SEPP 1 in this instance. The delegation issued under Circular B1 notes that Council can assume concurrence for two lot boundary adjustments where both lots are presently below the minimum subdivision standard subject to no additional allotments being created, that the agricultural use of the land is not jeopardised and that no additional housing entitlements are created.

## INTRODUCTION

### The Site

The subject properties are known as Lot 1 DP 1104659 (No 207) and Lot 5 DP 738176 (No 225) Pacific Highway, Ourimbah. Both properties have direct access to the Pacific Highway with their rear (west) boundary adjoining the Sydney-Newcastle freeway.

Lot 1 was the site of a former service station which was demolished and the site decontaminated a few years ago. The site is currently vacant. A dwelling-house occupied Lot 5.

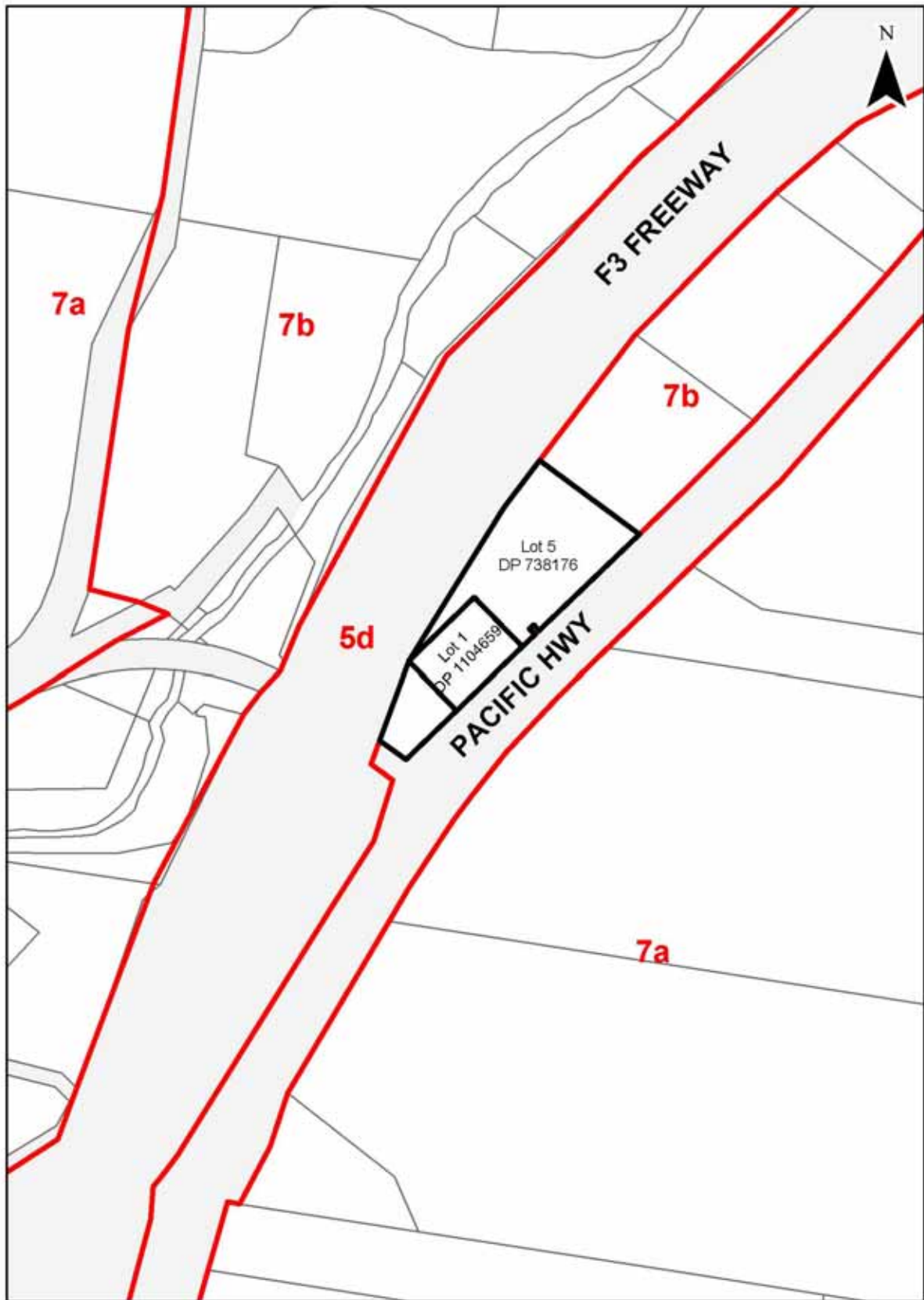
The subject properties are part of an isolated section of the 7(b) Scenic Protection zoning bounded by the Highway, F3 Freeway and Palmdale Road. The circumstances of the properties and the zoning were a direct result of land transactions for the Freeway extension undertaken in the early 1980's.



*Existing lot 5 DP 738176*



*Existing lot 1 DP 1104659*





### The Proposed Development

Consent is sought to adjust the common boundary between the subject allotments. The present configuration, established by way of acquisitions for the freeway construction, resulted in an unusual configuration for lot 5 which enclosed the rectangular shaped lot 1 formerly containing the service station. In effect, the southern portion of lot 5 became isolated from the more prominent northern section containing the residence.

The applicant seeks a more conventional arrangement for the management of each parcel of land by absorbing the southern portion of lot 5 into lot 1. The proposed layout appears as a more practical solution by promoting two parcels of land similar in balance in size and configuration.

Although the land is zoned 7(b) Scenic Protection, the land does not possess any real aesthetic values normally expected from land in scenic protection or conservation zoned areas. However the site (along with other nearby properties) does lend itself as a physical and visual buffer separating the Highway from the Freeway.

The owner of "Heatherbrae Pies" (presently located at the southern end of the Raymond Terrace Pacific Highway bypass near Heatherbrae) has lodged a Development Application (1486/2010) seeking consent to establish a retail outlet on the proposed lot 11. The boundary adjustment will facilitate the development of lot 11 should consent be granted.



*Aerial view with proposed lot arrangement*

### Summary

The applicant has demonstrated under the SEPP 1 objection that there is sufficient reason for Council to relax the development standards of WLEP by permitting the proposed boundary adjustment. In supporting the application, it is considered that Council is not setting a precedent given the unique circumstances of the site.

Therefore in the circumstances of the case the proposed adjustment to the property boundary is considered to be an appropriate step to better land management.

### VARIATIONS TO POLICIES

Clause	13(3)(b)
Standard	10%
LEP	Wyong Local Environmental Plan 1991
Extent of variation/departure	22% for proposed lot 12
Departure basis	see report for detail

### HISTORY

#### Lot 1 DP 1104659

Lot 1 in DP 1104659 was registered under a redefinition of the title on 18 October 2006. The previous land title was registered in September 1965.

In February 1974, Council approved DA 74/27 under the Wyong Planning Scheme Ordinance to expand the existing approved service station and cafe. The zone at time was Non Urban "B" and the development was prohibited. The application was approved under existing use rights provisions as an expansion to a service station.

DA 1327/99 for the expansion of the Service Station was approved on 8 June 1999.

DA 194/1998 for the Decommission of Fuel Storage Tanks was approved on 11 May 1998.

DA 1360/2004 for a Motor Vehicle Repair Station was refused on 22 October 2004. The reasons for refusal were based on the abandonment of existing use rights for a non-conforming land use. The site had been left inactive for several years.

DA 2251/2004 to demolish the service station was approved. The service station had not be used since 1997. The building was subsequently demolished in November 2004.

DA 2120/2006 for the construction of a Service Station refused on 28 August 2007. The reasons for refusal were based on the expiry of existing use rights for a non conforming land use.

#### Lot 5 DP 738176

Lot 5 in DP 738176 was registered from lot 2 in DP 14377 and lot 19 in DP 517076 on 11 November 1986 as a result of acquisition for the purchase of part of the land by the NSW Government for the extension of the Sydney-Newcastle freeway.

In the period of 1970 – 1974, several negotiations between Council, the land owner (at the time) and the Department of Main Roads (DMR, to later become the RTA) were undertaken to consider the viability of subdividing the original land package of lot 2 in DP 14377 and lot 19 in DP 517076.

Whilst approval for subdivision was never forthcoming, consent was issued for a caravan park under DC 75/87 on 28 May 1975. This approval was never acted upon and subsequently lapsed.

A dwelling and machinery shed was approved and constructed in 1986.

## **PERMISSIBILITY**

### **State Environmental Planning Policies (SEPP)**

There are no specific SEPP's that apply to the proposed boundary adjustment.

However, the Applicant has submitted a written objection under the provisions of State Environmental Planning Policy No 1 (SEPP 1) in order for Council to vary the development standards of Wyong Local Environmental Plan 1991 (LEP) to enable the boundary adjustment.

The merit of the applicant's SEPP 1 objection is addressed in the body of the report. The DoP has instructed Council in Circular No PS 08-014 that where variations in excess of 10% to a LEP provision occurs, the application must be determined at a Council meeting rather than at staff delegation level.

## **RELEVANT STATE/COUNCIL POLICIES AND PLANS**

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

### **State Regional Planning Policies (SREP)**

#### **(i) Central Coast Regional Strategy**

The Central Coast Regional Strategy was adopted by the NSW Government providing a strategic direction for population and employment growth for the Central Coast for the period from year 2006 – 2031.

### **Environmental Planning and Assessment Act 1979**

#### **(i) Section 79C**

The application is subject to the heads of consideration under Section 79C of the Environmental Planning and Assessment Act.



**(ii) Section 91**

The application is defined as “Integrated Development” under the provisions of Section 91 of the EP&A Act and was referred to the NSW Rural Fire Service (RFS).

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

**Wyong Local Environmental Plan (LEP) 1991****(i) LEP Definition and Zonings**

Each allotment is zoned 7(b) Scenic Protection under Clause 10 of the WLEP 1991.

The zone objectives of the 7(b) zone are as follows:

*“The objective is to restrict the type and scale of development which will be carried out on land possessing scenic values to that unlikely to:*

- (a) prejudice the present scenic quality of the land within this zone, or*
- (b) generate significant additional traffic or create or increase a condition of ribbon development on any road relative to the capacity and safety of the road, or*
- (c) prejudice the viability of existing commercial centres, or*
- (d) have an adverse impact on the region's water resources.”*

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

**(ii) LEP Subdivision and other Provisions**

The application is subject to several special provisions in the WLEP 1991. The specific clauses include Clause 13(3).

Clause 13 – *Subdivision*                      Consent is required for subdivision. The clause also includes criteria for boundary adjustments.

In summary, the proposal is required to meet the criteria of Clause 13(3) which describes general criteria for boundary adjustments. The body of the report addresses in detail compliance or non compliance with Clause 13(3).

**Development Control Plan (DCP) 2005 and Policies**

DCP No 2005:

Chapter No 67 – *Engineering*:

Guidelines for engineering works. Appropriate conditions to be imposed if approved.

Policy W1 – *Water Catchment Development Areas*: This policy controls development in the drinking water catchments. Subdivisions are not listed as prohibited development. The proposal is not likely to create any impact to the water catchment.

### ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

The proposed development is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

### ASSESSMENT

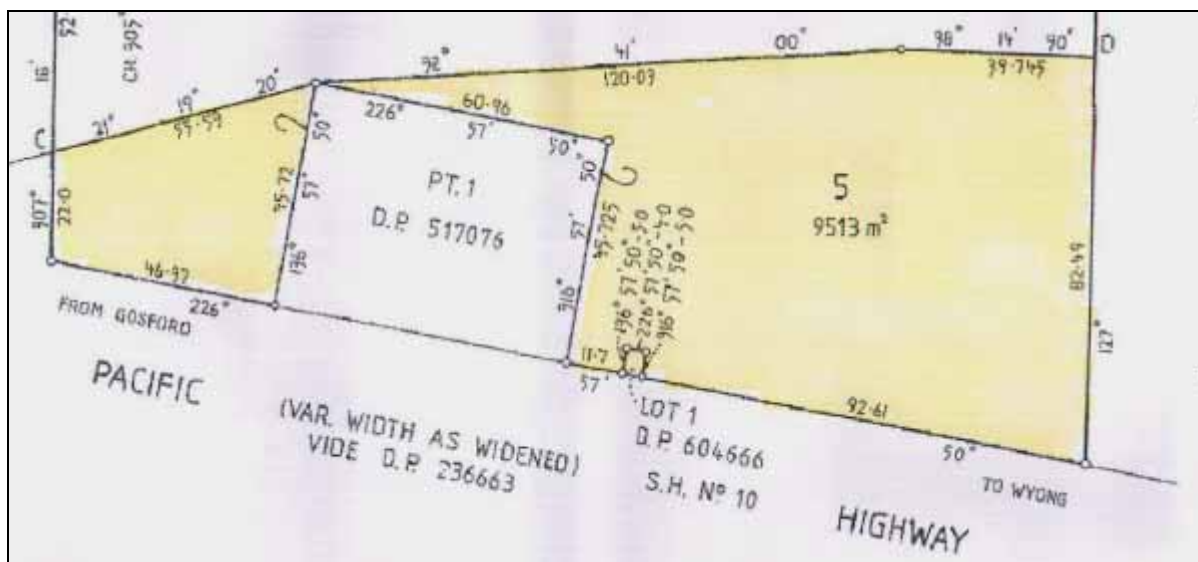
Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information.

#### Boundary Adjustment Strategy - Clause 13(3) of WLEP 1991.

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

The current lot status:

Lot 1 = 2,789m <sup>2</sup>	7(b) zoned
Lot 5 = 9,513m <sup>2</sup>	7(b) zoned



Existing lot 5 (shaded) and lot 1 configuration

□ The proposed lot arrangement:

Lot 11, predominantly from existing lot 1 = 4,907m<sup>2</sup>; increase in land area of 2,118m<sup>2</sup>

Lot 12, predominantly from existing lot 5 = 7,393m<sup>2</sup>; decrease in land area of 2,118m<sup>2</sup>. This represents a variation of 22% to the development standard.

Boundary adjustments are considered under Clause 13(3) of the WLEP 1991, which provides certain criteria for applications of this nature.

Clause 13(3) states:

*“13(3) Notwithstanding any other provisions of this plan, including the provisions of clause 14, the Council may consent to a subdivision of land for the purpose of a minor adjustment of the boundary between two lots provided that:*

- (a) the configuration of the allotments remains substantially the same, and*
- (b) the area of each allotment proposed is varied by no more than 10 per cent, and*
- (c) the Council is satisfied that the boundary adjustment is necessary in the circumstances of the case.”*

With respect to the specifics of Clause 13(3), the following comment is provided with regard to the criteria of 13(3)(a), (b) and (c).

#### 13(3)(a) *Configuration*

The configuration is substantially the same as the current lot layout. The proposed boundaries are considered to be compatible with the current land uses.

#### 13(3)(b) *Dimensional Compliance*

The reduction in area for proposed lot 12 exceeds the allowable 10% variation permitted. The departure proposed is 22%.

Accordingly the applicant has lodged an objection under SEPP 1 seeking variation to the provisions of Clause 13(3)(b). The objection is discussed in detail further in this report.

#### 13(3)(c) *Circumstances of the case*

The circumstances of the case reflect the desire to establish a more manageable arrangement for the use of the isolated southern portion of existing lot 5. This aspect is discussed in detail elsewhere in this report.

### State Environmental Planning Policy (SEPP) No 1

It has been recognised by Council that the development standard contained within Clause 13(3) of WLEP 1991 is amenable under SEPP No 1.

SEPP 1 provides flexibility in the application of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5 (a) (i) and (ii) of the EP&A Act, which are to encourage proper and appropriate land management within the natural environment.

The Land and Environment Court (LEC) has outlined the procedure for considering SEPP1 objections. The application is assessed in accordance with this procedure. (See Attachment 2 for a copy of the applicant's SEPP 1 objection)

*Is the planning control in question a development standard?*

The provisions of Clause 13(3) are deemed to be a development standard in respect to the extent of variation to lot size for a boundary adjustment.

The extent of departure (as a reduction) to the minimum standards of Clause 13(3) is 22% for proposed lot 12.

It should be noted that Council's delegation extends to assuming the concurrence of the DoP for the use of SEPP 1 in this instance. The delegation issued under Circular B1 notes that Council can assume concurrence for two lot boundary adjustments where both lots are presently below the minimum subdivision standards subject with no additional allotments created, that the agricultural use of the land is not jeopardised and that no additional housing entitlements are created.

Accordingly, as the application satisfies each of the above criteria, Council has the delegation to determine the application.

*What is the underlying object or purpose of the standard?*

The purpose of the standard in this instance is to protect, enhance and conserve land with agricultural values. The question is whether the boundary adjustment adversely impacts upon appropriate land management anticipated in the zone on the subject site.

Although the land is zoned 7(b) Scenic Protection, the characteristics of the zone are lost due to the circumstances surrounding the site. Prior to the Freeway been constructed, the land may have held conservation values given it was linked with the valley immediately to the west. However the construction of the Freeway eroded those values. The land therefore does not possess any real aesthetic values normally expected from land in scenic protection or conservation zoned areas. The site (along with other nearby properties) lends itself as a physical and visual buffer separating the Highway from the Freeway.

*Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

As noted above, the land is not regarded as having any conservation or scenic protection values. Existing lot 5 (proposed lot 12) which is subject to a reduction in dimensional land area already contains a residence with ancillary buildings and landscaped curtilages. The portion of land to be absorbed into proposed lot 11 does not affect the amenity of the existing residence given that it is not physically linked to existing lot 5. The management of proposed lot 12 would remain unchanged from the existing circumstance.

Accordingly, it is considered that it would be unreasonable or unnecessary to insist on compliance with the development standard when consideration is given to the purpose of the application. Furthermore, the existing allotments are already in non-compliance with the minimum 1st requirement.

*Is the objection well founded?*

The applicant's objection is considered to be well founded with grounds for Council to support the application. The objection demonstrates that strict application standard would hinder the development potential of the land.

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

Not applicable

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

*The relationship to the regional and local **context and setting**.*

The proposed boundary adjustment is not likely to have major bearing on the regional and local context in terms of land management. The site is bounded by major roadways with virtually no physical or visual connectivity with the surrounding districts.

*The **access, transport and traffic** management measures.*

The current access arrangements remain intact with both proposed allotments benefiting from absolute and unrestricted frontage to the Pacific Highway.

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

Nil impact

*The impact on **utilities** supply.*

The current on-site waste management facility to the existing residence (to be contained wholly within proposed lot 12) will remain intact.

Proposed lot 11, has an existing waste area used previously for the service station. Given that the property is vacant there is no need to upgrade or establish any new utility facilities.

*The effect on **heritage** significance.*

Nil impact

*Any effect on **other land resources**.*

Nil impact

*Any impact on the conservation of **water**.*

Nil impact

*Any effect on the conservation of **soils** or acid sulphate soils.*

Nil impact

*Any effect on quality of **air and microclimate conditions**.*

Nil impact

*Any effect on the **flora and fauna**.*

The site is relatively clear of native vegetation with only minor tree growth toward the rear of the land adjoining the freeway boundary.

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

#### Bush Fire

The land is subject to risk from bush fire. NSW RFS have granted a Bush Fire Safety Authority outlining special protection requirements for the existing residence which is sited on proposed lot 12. The RFS did not stipulate any specific requirements for proposed lot 11 however, in discussion with the RFS it was indicated that any application for development of proposed lot 11 would require an additional site specific assessment that could result in fire protection measures being applied.

#### Flooding

A minor part of the land (north-west corner) is affected by flooding. This does not affect the boundary adjustment or the potential for future development on proposed lot 11.

#### Ground Stability

The site is referred to as exhibiting "Yarramalong (Ya)" soil classification in accordance with the NSW Soil Landscape manual (CL Murphy 1993). The 'Ya' soil type is typical of a landscape that is found in the lower Ourimbah valley formations. There does not appear to be any apparent ground stability problems that would impede or prevent future residential development in particular for lot 11.

Any risks from **technological hazards**.

Acoustic Impact

The boundary adjustment results in a vacant allotment (proposed lot 11) neighbouring a major traffic thoroughfare, the Sydney–Newcastle Freeway. Given that the application does not propose any structural development on lot 11, there is no necessity to fully determine the impact of road noise on the current DA.

Future development on proposed lot 11 would require further acoustic consideration. Future residential development would be required to incorporate building design elements that provide certain levels of acoustic protection during both day and night periods. Based on similar circumstances elsewhere this can be achieved by way of strategic design of the floor layout.

Whether the development provides **safety, security and crime prevention**.

Nil impact

Any **social impact** in the locality.

Nil impact

Any **economic impact** in the locality.

Nil impact

Any impact of **site design and internal design**.

Nil impact

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

Nil impact

Any **cumulative impacts**.

Nil impact

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

Whether the **proposal fits in the locality**.

Nil impact

Whether the **site attributes are conducive to development**.

Nil impact

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

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

***Any submission from public authorities.*****Rural Fire Service**

The proposed boundary adjustment was referred to the NSW Rural Fire Service (RFS) for its concurrence under Section 91 of the EP&A Act 1979.

The RFS have issued General Terms of Approval subject to conditions of consent relating to asset protection zones to the existing residence. No tree removal is necessary to comply with the RFS requirements.

**Roads and Traffic Authority**

The site adjoins the F3 Freeway, land owned the State Government and administered by the RTA. The RTA have reviewed the application and offered no objection subject to denial of direct access from the private land to the freeway reserve.

**CONCLUSION**

It is considered that the application has adequately examined the social and environmental issues associated with the existing circumstances and the proposed scenario. The use of SEPP 1 to vary the provisions of clause 13(3) of the WLEP 1991 is regarded as appropriate in the circumstances. Specifically, proposed lot 11 would gain better opportunities for future development than presently exist.

Whilst this report does not recommend any specific designated building area for proposed lot 11, the future for development on this proposed lot has been considered in the assessment process. A Development Application is currently before Council for the development of proposed lot 11 for a retail establishment.

Accordingly the application is recommended for approval.

**ATTACHMENTS**

1	Conditions of Approval	D02451813
2	Applicant's SEPP 1 Objection	D02461165
3	Development Plans (A3)	D02466309



**Date:** 2 December 2010  
**Responsible Officer:** Mark Greer  
**Location:** 207 Pacific Highway, OURIMBAH NSW 2258, 225 Pacific Highway, OURIMBAH NSW 2258  
Lot 1 DP 1104659, Lot 5 DP 738176  
**Owner:** Palmdale Service Centre Pty Ltd and Mr A R Watt and Mrs W A Watt  
**Applicant:** Cahill & Cameron Pty Ltd  
**Date Of Application:** 30 July 2010  
**Application No:** DA/893/2010  
**Proposed Development:** Boundary adjustment  
**Land Area:** 12302.00

### PROPOSED CONDITIONS

- 1 The development taking place in accordance with the approved development plans reference number C20441, Sheets 1 to 2, Prepared by Cahill & Cameron Dated 30 June 2010 except as modified by any conditions of this consent, and any amendments in red.

### **Prior to Release of Construction Certificate:**

*The following conditions must be satisfied prior to the release of the Construction Certificate. Conditions may require the submission of additional information with the Construction Certificate Application. Applicants should also familiarise themselves with conditions in subsequent sections and provide plans in accordance with any design requirements contained therein.*

No Conditions

### **Prior to Commencement of Works:**

*The following conditions must be satisfied prior to the commencement of site works, including any works relating to demolition, excavation or vegetation removal.*

No Conditions

### **Prior to Release of Subdivision Certificate:**

*The following conditions must be satisfied prior to the release of an Occupation / Subdivision Certificate.*

#### **Bush Fire**

- 2 Prior to the issue of a Subdivision Certificate the submission to the Council of certification for compliance with the general terms of approval of the NSW Rural Fire Service as outlined in their correspondence dated 15 September 2010:

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

- \* At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 12, to a distance of 20 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document "Standards for asset protection zones".

This approval is for the subdivision of the land only. Any further development application for class 1, 2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP&A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

### **Certificates/Engineering Details**

- 3 An application for a Subdivision Certificate must be submitted to and approved by the Council/Principal Certifying Authority prior to endorsement of the plan of subdivision.

## **Ongoing Operation:**

***The following conditions must be satisfied during use / occupation of the development.***

No Conditions

**OBJECTION PURSUANT TO  
STATE ENVIRONMENTAL PLANNING POLICY NO 1  
DEVELOPMENT STANDARDS**

---

**Name and Address of Objector:**

SJH Planning & Design Pty Ltd  
1 McCauley Street  
DAVISTOWN NSW 2251

**Property Description:**

**Lot 1 in Deposited Plan No. 1104659 &  
Lot 5 in Deposited Plan No. 738176  
HN's 207 & 225 Pacific Highway, Ourimbah**

**1. Introduction:**

State Environmental Planning Policy No. 1 – Development Standards provides flexibility in the application of planning controls operating by virtue of development standards, in circumstances where strict compliance with those standards would in a particular case be unreasonable or unnecessary.

In deciding whether to consent to a Development Application the Council should test this general principal by examining whether the proposed development is consistent with the State, regional or local planning objectives for the locality, and in particular the underlying objective of the standard.

If the development is not only consistent with the underlying purpose of the standard, but also with the broader planning objectives of the locality, strict compliance with the standard would be unreasonable or unnecessary.

This objection demonstrates that the proposed development is consistent with the objects of the Environmental Planning and Assessment Act in relation to promotion and co-ordination of the orderly and economic use and development of land.

**2. Proposed Development:**

The proposed development involves the realignment of property boundaries and is described in detail in the plans and accompanying Statement of Environmental Effects lodged by the Surveyors for the owner of the property.

### 3. Property Description:

Factors relevant include the sites physical and locational characteristics; existing and likely future built environmental and nearby and adjacent development; matters relevant to an assessment as to whether the requirement for strict compliance with an identified development standard is unreasonable or unnecessary.

In this case, the lot areas, dimensions, topography and existing and likely future built environment need to be considered in the context of the intended redevelopment of the abandoned service station site as a drive in and takeaway restaurant (Bakery).

### 4. Development Standard Proposed to be Varied (insert relevant development standard and variation):

Clause No. 13(3) of the Wyong Local Environmental Plan 1991 provides for a variation at 10% of the existing site area of lots in "realignment" applications.

In this case, the areas of existing to proposed lots range from between 75% increase and 22% decrease in relation to Proposed Lots 11 and 12 respectively.

The variation to development standards in each instance therefore is in excess of the 10% permitted routinely and therefore requiring consideration under the provisions of State Environmental Planning Policy No. 1.

### 5. Consideration as to Whether Variation of the Development Standard is Reasonable:

The case of Winten Property Group Limited v's North Sydney Council (2001) NSWLEC46 established five (5) questions that ought to be asked when determining whether an objection to a development standard, lodged under State Environmental Planning Policy No. 1 is acceptable.

#### 5.1 "Is the Planning Control in Question a Development Standard?"

The proposed development involves the realignment of existing lot boundaries and, as a consequence, adjustment to the contiguous areas of each of the two (2) lots.

Clause No. 13(3) of the Wyong Local Environmental Plan 1991 provides for variations of existing lots areas of 10% in such realignments. Variations in this instance for both lots are in the order of 75% increase for Proposed Lot 11 and 22% decrease for Proposed Lot 12.

The "development standard" contained within Clause No. 13(3) of Wyong Local Environmental Plan 1991 is a development standard that may be varied by the consent authority pursuant to the provisions of State Environmental Planning Policy No. 1.

**5.2 "What is the Underlying Objective or Purpose of the Development Standard?"**

There is no stated purpose of the variation provision of 10% as contained with Clause No. 13(3) of the Wyong Local Environmental Plan 1991 although it is reasonable to assume that the purpose is to provide for realignments of property boundaries and to give some guidance that the realignment should not result in wholesale variation from minimum lot area requirements.

This proposal does not result in "wholesale" variations from minimum standards, but rather does provide for a rational, orderly and economic utility of both parcels of land to be created.

**5.3 "Is Compliance with the Development Standard consistent with the Aims of the Policy and in Particular does Compliance with the Development Standard Tend to Hinder the Obtainment of the Objectives specified in Section 5(a)(i)(ii) of the Environmental Planning and Assessment Act?"**

State Environmental Planning Policy No. 1 provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular, case, be unreasonable and unnecessary, or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

*"5. The objects of this Act are:*

*(a) to encourage-*

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
- (ii) the promotion and coordination of the orderly and economic use and development of land."*

Section 5.4 below demonstrates that the proposed development is consistent with the underlying purpose of the provision of Clause No. 13(3) of the Wyong Local Environmental Plan 1991.

The proposed boundary adjustment will result in the creation of two (2) lots each of which reflect existing assets and redevelopment potential.

#### 5.4 "Is Compliance Unreasonable and Unnecessary in the Circumstances?"

The relevant objectives applying to the 7(b) Scenic Protection Zone are: -

*"The objective is to restrict the type and scale of development which will be carried out on land possessing scenic values to that unlikely to:*

- (a) prejudice the present scenic quality of the land within this zone, or*
- (b) generate significant additional traffic or create or increase a condition of ribbon development on any road, relative to the capacity and safety of the road, or*
- (c) prejudice the viability of existing commercial centres, or*
- (d) have an adverse impact on the region's water resources".*

The proposal, which is a adjustment to lot boundaries, (neutral in terms of its physical impacts) does provide opportunity for rational, orderly and economic use of the proposed vacant lot consistent with the uses permitted in the scenic protection zone on a site which previously accommodated service station and allied uses on what, historically, was the major North South alignment of the Pacific Highway; a road which clearly carried significantly additional volumes of traffic historically then it does today.

Since the construction of the Sydney-Newcastle freeway immediately to the North West of the subject site, the capacity of the road infrastructure adjacent to the subject site now clearly exceeds the volumes of traffic presently experienced in and about the locality.

Accordingly, the proposal (which is a adjustment to property boundaries) is unlikely to prejudice the present scenic value of the land nor generate significant traffic relative to the capacity of the safety of that road.

The ultimate use of the land as in intended for a drive in and takeaway restaurant will not prejudice the viability of existing commercial centres and nor will the ultimate use of the land have an adverse impact on the region's water resources.

**6. Summary, Conclusion and Recommendation**

In brief, this Objection under State Environmental Planning Policy No. 1 applies to the strict application of development standards, which if applied without variation, would diminish the rational, orderly and economic use of the land and tend to hinder the satisfaction of the relevant objectives applicable.

In those circumstances strict compliance is considered unreasonable and unnecessary and variation will facilitate satisfaction of the objectives in a manner consistent with the sound town planning principles.

**PROPOSED BOUNDARY REALIGNMENT**  
**No.207 & 225 PACIFIC HIGHWAY**  
**OURIMBAH**  
**LOT 1 IN DP 1104659 & LOT 5 IN DP 738176**



LOCALITY MAP

DRAWING SCHEDULE		
NO.	DESCRIPTION	DATE
1	PLAN SET	
2	FINAL BOUNDARY PLAN SET 1	
3	FINAL BOUNDARY PLAN SET 2	
4	PRINTING OF PLANS	

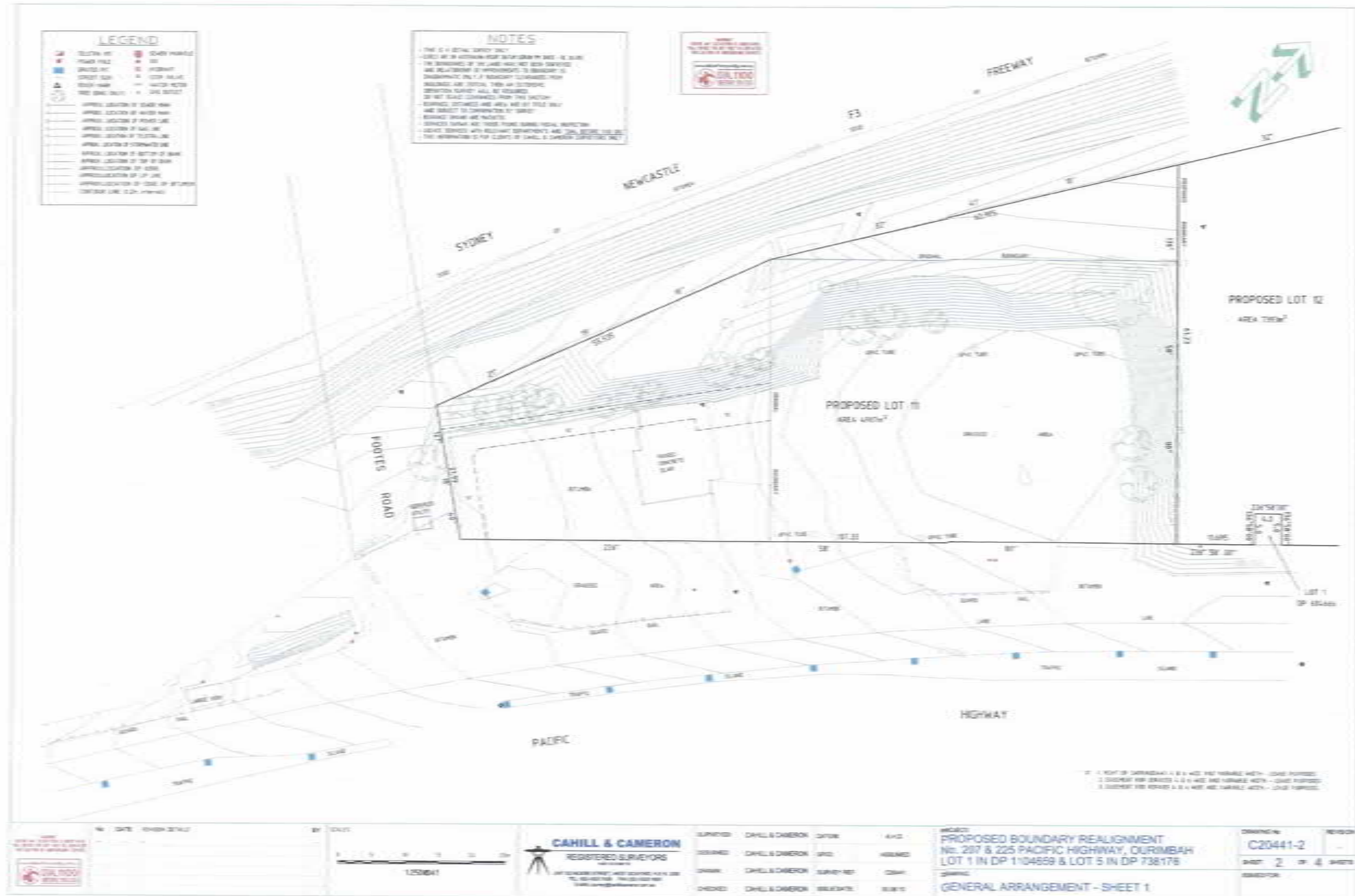
SURVEYED & PREPARED BY

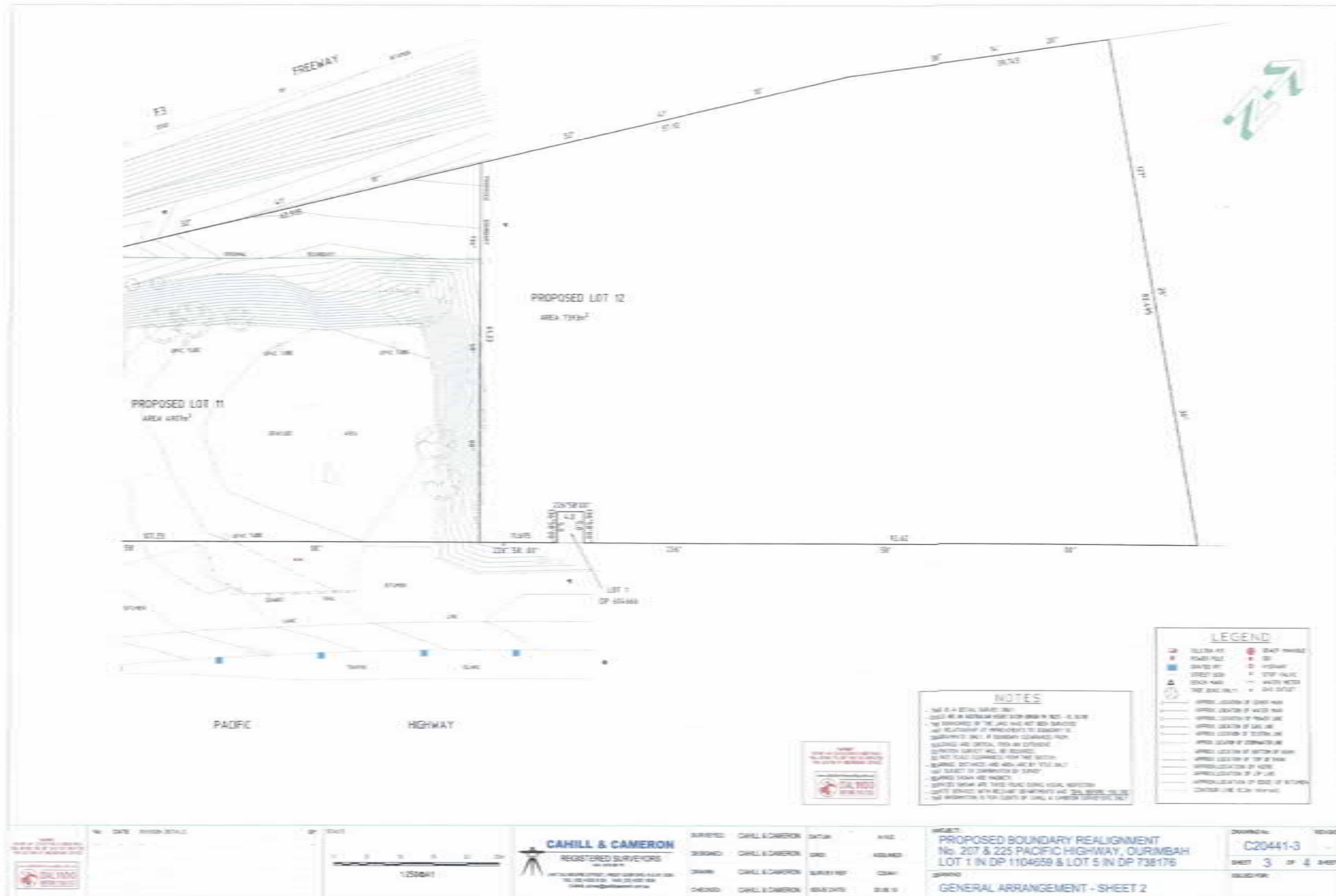


**CAHILL & CAMERON**  
**REGISTERED SURVEYORS**  
A.S.N. 2010/28791  
 UNIT 32 MOORE STREET, WEST GOSSFORD, N.S.W. 2250  
 TEL: (02) 4325 2128 FAX: (02) 4325 1838  
 EMAIL: survey@cahillcameron.com.au

PROJECT No. C20441







**LEGEND**

	UTILITY POLE		STREET POLE
	ROAD POLE		STOP VALVE
	WATER METER		WATER METER
	GAS METER		GAS METER
	SEWER METER		SEWER METER
	WATER METER		WATER METER
	GAS METER		GAS METER
	SEWER METER		SEWER METER
	WATER METER		WATER METER
	GAS METER		GAS METER
	SEWER METER		SEWER METER
	WATER METER		WATER METER
	GAS METER		GAS METER
	SEWER METER		SEWER METER

**NOTES**

- 1. THE BOUNDARY REALIGNMENT IS SHOWN IN RED - TO BE DONE.
- 2. THE BOUNDARY OF THE LAND HAS NOT BEEN SURVEYED AND RELATIONSHIP OF BOUNDARIES TO EXISTING BOUNDARIES SHALL BE DETERMINED BY SURVEY.
- 3. BOUNDARY DISTANCES AND BEARS ARE BY THE BOUNDARY DISTANCES AND BEARS ONLY.
- 4. BOUNDARY DISTANCES AND BEARS ARE BY THE BOUNDARY DISTANCES AND BEARS ONLY.
- 5. BOUNDARY DISTANCES AND BEARS ARE BY THE BOUNDARY DISTANCES AND BEARS ONLY.
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- 8. BOUNDARY DISTANCES AND BEARS ARE BY THE BOUNDARY DISTANCES AND BEARS ONLY.
- 9. BOUNDARY DISTANCES AND BEARS ARE BY THE BOUNDARY DISTANCES AND BEARS ONLY.
- 10. BOUNDARY DISTANCES AND BEARS ARE BY THE BOUNDARY DISTANCES AND BEARS ONLY.

<p><b>CAHILL &amp; CAMERON</b> REGISTERED SURVEYORS</p>	SURVEYED: CAHILL & CAMERON DESIGNED: CAHILL & CAMERON DRAWN: CAHILL & CAMERON CHECKED: CAHILL & CAMERON	DATE: 14/02/2024 DRAWN: 14/02/2024 SURVEY NO: 2024/001 SCALE: 1:500	PROJECT: PROPOSED BOUNDARY REALIGNMENT No. 207 & 225 PACIFIC HIGHWAY, OURIMBAH LOT 1 IN DP 1104659 & LOT 5 IN DP 738176	DRAWING NO: C20441-3 SHEET 3 OF 4 SHEETS REVISIONS:
	GENERAL ARRANGEMENT - SHEET 2			

### **3.1 Classification of Land - Lot 733 DP 1157871 Hakone Road, Woongarra**

---

TRIM REFERENCE: F2010/02027 - D02432569  
AUTHOR: Simone Barwick, Property Officer  
MANAGER: Bronwyn Rumbel, Manager Economy Property Development

#### **SUMMARY**

Authority is sought to classify Lot 733 DP 1157871, Hakone Road, Woongarra as Operational Land.

#### **RECOMMENDATION**

- 1 That Council classify Council land Lot 733 DP 1157871, Hakone Road, Woongarra as Operational Land.**
- 2 That Council adopt the classification if no adverse submissions are received.**

#### **BACKGROUND**

Danallam Developments Pty Limited (Danallam) is the owner of Lots 91 and 91A DP 22837 (Danallam land). As part of the development of the Danallam land, Danallam has agreed to transfer to Council proposed Lot 733 DP 1157871 for drainage purposes.

The provision for a drainage channel by Danallam will control flood water in this area.

Lot 733 DP 1157871 in a subdivision at Hakone Road, Woongarra has been dedicated to Council by Danallam as Drainage Reserve from the plan of subdivision pursuant to a consent condition of Development Application No. 3331/2002/B issued on 19 October, 2009. Lot 733 DP 1157871 is 130.5 m<sup>2</sup> and is zoned 2(e) (Urban Release Area Zone).

#### **THE PROPOSAL**

It is proposed to classify Lot 733 DP 1157871 as Operational Land.

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.

## **OPTIONS**

Council may resolve to apply either a “community land” or an “operational land” classification. As the land is to be used for drainage and specifically a drainage channel, the land should be classified as Operational land in accordance with the Public Land Classification Table adopted by Council.

## **STRATEGIC LINKS**

The subdivision will enable better economic disposal and orderly development of the land as evidenced by the dedication of this land for drainage.

## **Financial Implications**

There is no cost to Council for classifying the land. Transfer of the land to WSC pursuant to DA 3331/2002/B, is at no cost to Council.

## **GOVERNANCE**

Under Section 31 of the Local Government Act 1993, land acquired by Council is taken to be classified as Community land unless Council resolves that the land concerned be classified as Operational.

## **CONCLUSION**

Lot 733 DP 1157871 has been passed to Council's ownership and requires classification in accordance with Local Government Act 1993 (Chapter 6, Part 2, s.25-34).

Council may resolve to apply either a “community land” or an “operational land” classification.

The land will be employed by Council for drainage purposes and thus requires to be classified as Operational Land.

## **ATTACHMENTS**

*Nil.*

### **3.2 Delegation of Authority to Dispose of Council Land at Killarney Vale**

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TRIM REFERENCE: F2010/01608 - D02452235  
AUTHOR: Julie Tattersall, Property Officer  
MANAGER: Bronwyn Rumbel, Economy Property Development

#### **SUMMARY**

Approval is sought to delegate authority for sale of Council land Lots 1 and 2 DP 732182, 14-15 Boorana Close, Killarney Vale to the General Manager.

#### **RECOMMENDATION**

- 1** *That Council delegate authority to the General Manager for the sale of Lots 1 and 2 DP 732182 at 14-15 Boorana Close, Killarney Vale for an amount not less than market value for each parcel as determined by a qualified registered valuer.*
- 2** *That Council authorise the common seal of Wyong Shire Council to be affixed to the formal documents for the sale and transfer of the land.*
- 3** *That Council authorise the Mayor and the General Manager to execute all documents.*

#### **BACKGROUND**

On 11 November 2010 a Councillor Business update was posted proposing the sale of Council land Lots 1 and 2 DP 732182 Boorana Close, Killarney Vale. A copy of the update is included for information.

#### **THE PROPOSAL**

No issues were raised as a result of the update and approval is now sought to delegate to the General Manager authority for the sale of Lots 1 and 2 DP 732182 at 14 – 15 Boorana Close Killarney Vale.

#### **CONSULTATION**

Council's operational units have been asked for comment on the proposal which has revealed there are no plans for current or future use and that they are surplus to requirements and no objections have been raised to a sale of the parcels.

### 3.2 Delegation of Authority to Dispose of Council Land at Killarney Vale (contd)

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#### FINANCE

The proceeds of this sale will be held in Council's Property Development and Investment Development Restricted Asset for future property investments; and the profit on this sale will improve Council's operating result for 2010-11.

#### GOVERNANCE

The land is classified as Operational Land for the purposes of the Local Government Act 1993. There is no impediment to sale.

#### CORPORATE RISKS

Nil impact.



**CONCLUSION**

Approval is sought to delegate authority for sale of Council land Lots 1 and 2 DP 732182, 14-15 Boorana Close, Killarney Vale to the General Manager.

**ATTACHMENTS**

- 1 Councillor business Update D02433389





## COUNCILLOR BUSINESS UPDATE

11 November 2010

### **PROPOSED SALE OF LAND 14-15 BOORANA CLOSE KILLARNEY VALE**

Lots 1 and 2 DP 732182 Boorana Close Killarney Vale were transferred to Council by Jennings Health pursuant to a condition of Development Consent on 19 October 1988 for the development of Lots 1 - 12 DP 732182 as a Hostel for the Aged.

At the time, the proposed development surrounded a public reserve (Lot 13 DP 732182) with an area of 602.8 square metres. By its physical appearance, the development implied that the reserve formed part of the aged care development.

At its meeting on 5 October 1988 Council's General Purposes Committee considered the proposal by the applicant to transfer the Lots 1 and 2 to Council in fee simple to provide a more functional area of public reserve on the basis of Council transferring Lot 13 to enable its incorporation into the development.

As part of the consent for the subdivision Lot 13 was subsequently transferred to Jennings Health and Lots 1 and 2 were transferred to Council.

Since the transfer of Lots 1 and 2 to Council there has been no use of the land as public reserve and the land has not been embellished by Council for purposes associated with public reserve use.

Physical inspection of the properties revealed that these parcels are used for vehicle parking, probably by local residents or businesses.

Lot 1 has an area of 624.3 sq m and Lot 2 an area of 663.1 sq m. The parcels are predominantly cleared and level.

Council's operational units have been asked for comment on the potential for disposal of the land. There are no plans for current or future use of the parcels and accordingly they are surplus to requirements and no objections have been raised to a sale of the parcels.

The subject land is zoned 2(a) residential and is classified as Operational Land. There is no impediment to sale.

If no concerns are raised by Councillors, staff will proceed with the sale of these parcels. Proceeds from the sale will be held in Council's Land Development Reserve for future property investments.



Provided below for your information, is a map showing the location of the two parcels.



DEPARTMENT: CORPORATE SERVICES

Contact: Ms Bronwyn Rumbel, Manager Economic & Property Development

Reference: [F2010/01608](#)

### **3.3 Acquisition of Easements and Land for Warnervale Town Centre Sewerage Infrastructure at Virginia Road, Warnervale Road and Minnesota Road**

---

TRIM REFERENCE: F2008/02526 - D02468979

AUTHOR: Julie Tattersall, Property Officer

MANAGER: Bronwyn Rumbel, Manager Economic & Property Development

#### **SUMMARY**

Approval is sought to acquire easements to drain sewage over 10 lots at Minnesota Road, Virginia Road and Warnervale Road, Hamlyn Terrace and Virginia Road, Warnervale

#### **RECOMMENDATION**

- 1 That Council acquire easements to drain sewage, generally 5m wide, over the following land:**

<b>Lot 22 DP 803506</b>	<b>157-179 Minnesota Road, Hamlyn Terrace</b>
<b>Lot 49 DP 7091</b>	<b>Minnesota Road, Hamlyn Terrace</b>
<b>Lot 48 DP 7091</b>	<b>107-171 Virginia Road, Hamlyn Terrace</b>
<b>Lot 76 DP 7091</b>	<b>107-171 Virginia Road, Warnervale</b>
<b>Lot 75 DP 7091</b>	<b>107-171 Virginia Road, Warnervale</b>
<b>Lot 74 DP 7091</b>	<b>107-171 Virginia Road, Warnervale</b>
<b>Lot 73 DP 7091</b>	<b>95-105 Virginia Road, Warnervale</b>
<b>Lot 72 DP 7091</b>	<b>77-91 Warnervale Road, Warnervale</b>
<b>Lot 101 DP 829060</b>	<b>93-123 Warnervale Road, Hamlyn Terrace</b>
<b>Lot 14 DP 371162</b>	<b>112-116 Warnervale Road, Hamlyn Terrace</b>

- 2 That Council authorise the payment of compensation, if necessary, for the acquisition of the easements 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 easements in the event that negotiations with the property owners cannot be satisfactorily resolved.**
- 4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents relevant to the acquisition.**
- 5 That Council authorise the Mayor and the General Manager to execute all documents.**

#### **BACKGROUND**

Council proposes to construct a sewer trunk main to service the projected growth in population, employment and retail demand for the Warnervale Town Centre.

**3.3 Acquisition of Easements and Land for Warnervale Town Centre Sewerage Infrastructure at Virginia Road, Warnervale Road and Minnesota Road (contd)**

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Easements are required over the following properties:

<b>Description</b>	<b>Address</b>	<b>Area (m<sup>2</sup>)</b>	<b>Zoning</b>
Lot 22 DP 803506	157-179 Minnesota Road, Hamlyn Terrace	55,840	2(e), 7(b)
Lot 49 DP 7091	Minnesota Road, Hamlyn Terrace	66,690	1(c)
Lot 48 DP 7091	107-171 Virginia Road, Hamlyn Terrace	63,910	1(c)
Lot 76 DP 7091	107-171 Virginia Road, Warnervale	62,230	1(c), 10(a)
Lot 75 DP 7091	107-171 Virginia Road, Warnervale	62,320	1(c), 10(a)
Lot 74 DP 7091	107-171 Virginia Road, Warnervale	62,320	1(c), 10(a)
Lot 73 DP 7091	95-105 Virginia Road, Warnervale	62,300	1(c), 10(a)
Lot 72 DP 7091	77-91 Warnervale Road, Warnervale	51,790	10(a)
Lot 101 DP 829060	93-123 Warnervale Road, Hamlyn Terrace	102,800	10(a), 7(g)
Lot 14 DP 371162	112-116 Warnervale Road, Hamlyn Terrace	20,070	10(a)

Access will be required to the affected properties in February 2011 and construction is expected to commence in April 2011.

**THE PROPOSAL**

Associated with the sewer trunk main, it will be necessary to acquire easements, generally 5m wide, over the affected properties to satisfy Council's requirements in respect to the operation and maintenance of the main.

**OPTIONS**

If Council does not authorise the acquisition of the easements, the construction of the sewer trunk main will not proceed as Council needs to have access to the affected properties for construction, operation and maintenance of the main.

**STRATEGIC LINKS**

**Annual Plan**

12048 – Warnervale Sewerage Infrastructure

**Contribution of Proposal to the Principal Activity**

The construction of the sewer trunk main will service the Warnervale Town Centre.

### **3.3 Acquisition of Easements and Land for Warnervale Town Centre Sewerage Infrastructure at Virginia Road, Warnervale Road and Minnesota Road (contd)**

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#### **Link to Shire Strategic Vision**

**Employment** - There will be a strong and sustainable business sector and increased local employment built on the Central Coast's business strengths. The construction of the trunk main will facilitate release of lands in precinct 7A (Warnervale Village) and the Warnervale Town Centre.

#### **Financial Implications**

Funds are available in the 2010-11 Annual Plan (Project 12048) as indicated above.

#### **Principles of Sustainability**

A detailed Review of Environmental Factors was carried out and submitted to Council Planners for review. The assessment concluded that the proposed activities are unlikely to have a significant impact on any ecological matter. Consideration has also been given to recently revised flood levels in the area.

### **CONSULTATION**

The owners of the affected properties have been advised of the proposal and negotiations for the acquisition of the easements will proceed subject to Council's approval.

The Roads and Traffic authority was consulted for Sparks Road widening proposals.

### **GOVERNANCE**

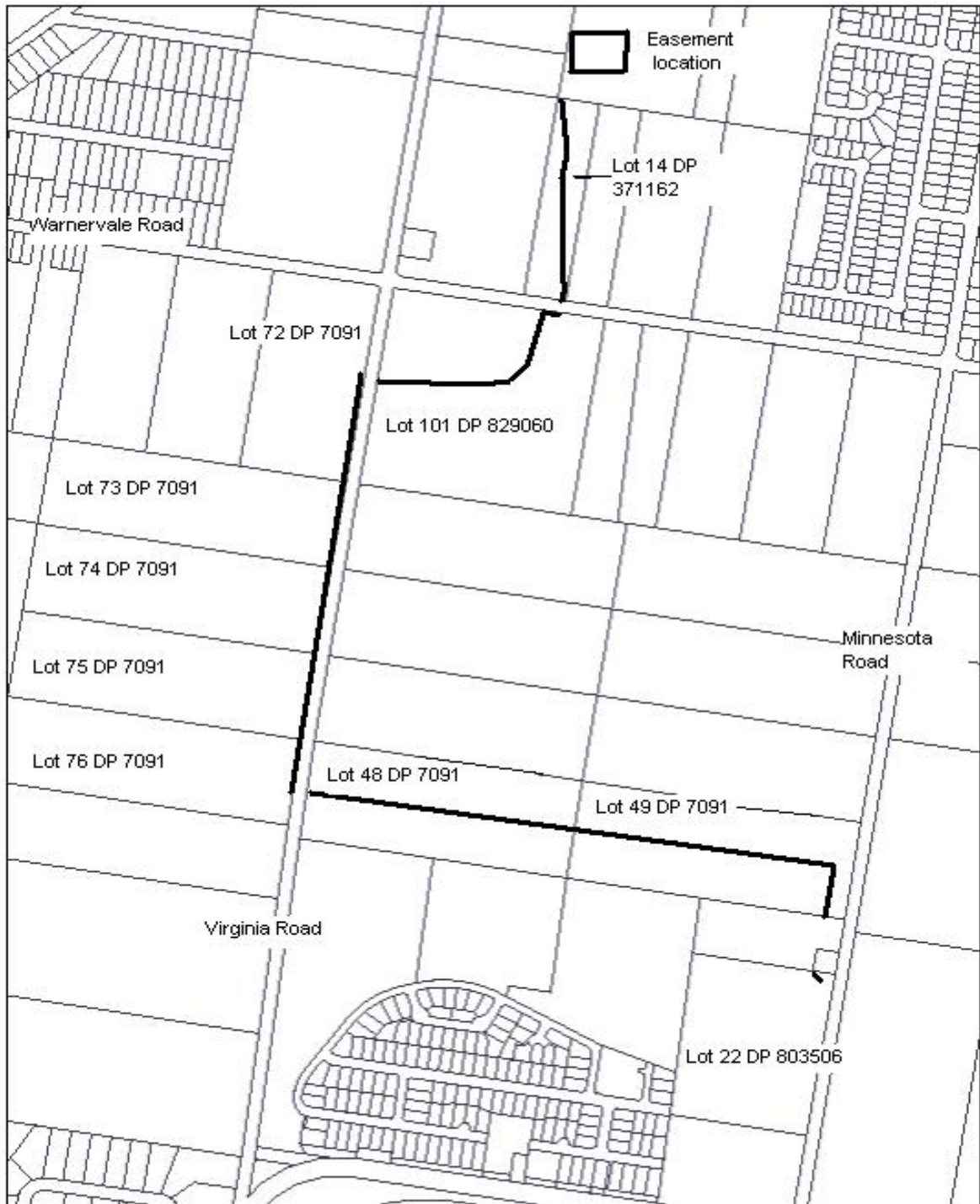
Council has the authority to acquire easements under the Water Management Act 2000 and, if compulsory acquisition is necessary, the Land Acquisition (Just Terms Compensation) Act 1991 provides the procedure to be undertaken.

### **CORPORATE RISKS**

Nil impact.

### **CONCLUSION**

The acquisition of the easements is to facilitate Council's project to provide sewerage services for the development of the Warnervale Town Centre and adjacent areas. The project cannot proceed without the access provided by the easements over the land.



**ATTACHMENTS**

*Nil.*

#### **4.1 Contract CPA/132383 - Contract Extension for the Provision of Local Area Newspaper Advertising**

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TRIM REFERENCE: CPA/132383 - D02492452

AUTHOR: Martine Brieger; Manager Communications

##### **SUMMARY**

This report recommends Council exercise its option to extend Contract No. CPA/132383 Provision of Local Area Newspaper Advertising for a further 24 months.

##### **RECOMMENDATION**

- 1 That Council exercise its option to extend the contract for the provision of local area newspaper advertising with Nationwide News Pty Ltd (trading as Central Coast Express Advocate) for a further two years to 1 January 2013.**
- 2 That Council note the estimated total annual expenditure is \$191,000 (excl. GST) however actual expenditure may vary significantly with fluctuations in demand.**

##### **BACKGROUND**

Council's Communications Manager met with representatives of Nationwide News in November 2010 to discuss the extension of the contract for a further 24 months from 2 January 2011. Both parties verbally agreed to a continuation of the existing rates until 30 June 2011 with an increase on 1 July 2012 based on Consumer Price Index (CPI) for 2010/11 (Sydney). These rates have been applied since the 1 January 2011 and will continue under the verbal agreement while Council considers and responds to this report.

Council regularly advertises information in the local newspaper for the purpose of:

- compliance with statutory regulations (e.g. development decisions, road closures)
- recruitment
- tenders
- increasing public participation (e.g. grants available, plans or reports on exhibition)
- informing the public of services and Council business (e.g. meeting dates, available programs)
- influencing behaviour (eg. water resources, waste, and estuary management).

Advertising is also commonly stipulated as a requirement under State and Federal Government grants.

## 4.1 Contract CPA/132383 - Contract Extension for the Provision of Local Area Newspaper Advertising (contd)

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At the Ordinary Meeting of Council on 28 November 2007, Council resolved to accept the tender from Nationwide News Pty Ltd (trading as the *Central Coast Express Advocate*) for an initial period of 36 months commencing 2 January 2008. The estimated annual expenditure was \$160,986.00 excl GST, with an acknowledgement that actual expenditure may vary significantly with fluctuations in demand.

Council further approved a variation of \$100,000.00 for this contract at the Ordinary Meeting of 23 June 2010.

Consideration was given to the high number of Federal and State Government grant funded projects which stipulated an advertising component as part of the funding conditions, for example the Estuary Management Plan, Mardi to Mangrove Link, and Roads & Traffic Authority road safety campaigns. With the grant funded advertising removed, expenditure of \$14,000.00 per month equated to expenditure of 4.5% over the initial contract estimate.

### PROPOSAL

#### General

This report recommends revising the annual estimated expenditure from \$160,986.00 to \$190,000.00 based on this pattern of expenditure in the first three years of the contract. This does not commit Council to this level of expenditure and it should be noted that ways to reduce costs through review of internal processes will continue to be regularly sought.

During the three years of this contract there have been no significant incidents or issues between Wyong Shire Council and Nationwide News Pty Ltd and the contractor's performance has been assessed as very good.

In addition, Council's most recent communications survey (January 2010) found that newspapers were the primary source of information regarding Council services and activities – nominated by 86.3% of respondents. The survey also showed that the *Central Coast Express Advocate* is the most read newspaper with 90% of respondents indicating they are frequent or occasional readers with the next closest publication being *The Daily Telegraph* with 51%.

The *Central Coast Express Advocate* is now the only weekly publication covering the majority of the Wyong Shire.

Given the limited supplier base, short contract period, and costs of re-tendering, it would be in Council's interest to take up the two year contract extension.

New tenders would be called towards the middle of 2012 to commence from 2 January 2013.

#### Corporate Risks

The main risk to consider in this situation is that the key competitor to Nationwide News Pty Ltd (Fairfax Pty Ltd) no longer operates a weekly Central Coast newspaper. Therefore, a decision to re-tender for this service is likely to result in higher costs being incurred due to a less competitive market.

**OPTION**

The alternative of not extending the existing contract is to re-tender. With no alternative providers in the current market, higher costs are likely. As a result, Council may have to significantly reduce its current level of service.

**CONCLUSION**

The existing contract with Nationwide News Pty Ltd continues to meet Council's requirements and represents the best value for money for Council.

It is recommended that the extension to the contract be approved for a further 24 months from 2 January 2011 to 1 January 2013.

**ATTACHMENTS**

*Nil.*



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

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TRIM REFERENCE: CPA/145091 - D02457484  
AUTHOR: Gordon Prior, Coordinator Level 2 Plant Pool  
MANAGER: John Barnard, Manager Plant Fleet Depots

### **SUMMARY**

Council is seeking to exercise its option to extend each of the following contracts with the approved Contractors for the period 1 February 2011 to 31 January 2012. Contract CPA/145091 – Hire of Minor Plant and Equipment, Contract CPA/145088 – Hire of Plant and Machinery and Contract CPA/145089 – Hire of Tipping Trucks.

### **RECOMMENDATION**

- 1 That Council exercise its option to extend Contract CPA 145091 - Hire of Minor Plant and Equipment for the period 1 February 2011 to 31 January 2012.**
- 2 That Council exercise its option to extend Contract CPA 145088 - Hire of Plant and Machinery for the period 1 February 2011 to 31 January 2012.**
- 3 That Council exercise its option to extend Contract CPA 145089 - Hire of Tipping Trucks for the period 1 February 2011 to 31 January 2012.**

### **BACKGROUND**

Council resolved unanimously in January 2009:

*“That Council accept all conforming tenders received for Contract CPA 145088 Hire of Plant and Machinery for the period 1 February 2009 to 31 January 2010.*

*That Council authorise the Director Shire Services to arrange engagement of Plant and Machinery as required from time to time in accordance with Contract CPA 145088 using the most economical and suitable supplier as each situation demands.”*

*That Council accept all conforming tenders received for Contract CPA/145089 – Hire of Tipping Trucks on a priority ranking list for the period 1 February 2009 to 31 January 2010.*

*That Council authorise the Director Shire Services to arrange engagement of Tipping Trucks as required from time to time in accordance with the priority ranking list.*

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

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

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

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Council resolved unanimously in November 2009:

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

### BACKGROUND

Due to the nature and diversity of operations, WSC needs to externally hire minor plant, heavy plant & machinery and tipping trucks. To ensure these items are readily available at the most competitive rates, tenders are invited every two to three years. The current contracts are due to expire on 31 January 2011 but provide for Council to exercise an option to extend the contracts for a further 12 months.

When a requirement arises, it is met from WSC's own resources wherever possible. If not available due to previous allocations or the equipment is not owned by WSC Plant Pool Coordinators source the required equipment from the list of suppliers using the most economical and suitable supplier as each situation demands.

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

### PROPOSAL

It is proposed to extend the contract in accordance with the option combined therein.

Extensions are at the discretion of the Principal (WSC). In determining whether to award an extension to the contract, the Principal will consider the commercial and operational advantages that can be gained by undertaking a fresh tendering exercise and entering into a new contract.

The decision by Council to award an extension will include, but not be limited to:

- Commercial Advantage to Council.
- Quality of Supply.
- Reliability of Services.
- Conformance with OHS&R requirements of the Contract and relevant legislation.

A comparison of the current contract rates with general industry standard rates found the current rates (adjusted for CPI in February 2011) continue to provide Council with a competitive financial advantage.

Performance reviews relating to the existing contractors have been completed and rated as satisfactory. These reviews were by means of discussions and feedback from Council staff and covered such issues as the quality and reliability of the supplied plant and equipment, their commitment to Occupational Health & Safety, conformance with the tender and work

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

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practices and system procedures. To date, all contractors have been found to be in compliance of their obligations under the contract.

Tendered rates for equipment, in line with the CPI rise, will be adjusted on the contract anniversary.

**CONCLUSION**

It is recommended that Council exercise its option to extend each of the following contracts with the current approved Contractors for the period 1 February 2011 to 31 January 2012:-

- 1 Contract CPA 145091 – Hire of Minor Plant and Equipment.
- 2 Contract CPA 145088 – Hire of Plant and Machinery.
- 3 Contract CPA 145089 – Hire of Tipping Trucks.

**ATTACHMENTS**

*Nil.*

### **4.3 Contract CPA/149745 - Contract Extension for the Supply, Delivery and Lay of Cultivated Turf**

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TRIM REFERENCE: CPA/149745 - D02472650  
AUTHOR: John McCarthy; Coordinator Purchasing  
MANAGER: Mike Long, Manager Contracts and Project Management

#### **SUMMARY**

This report recommends that Council exercise its option to extend Contract CPA/149745 for the Supply, Deliver and Lay of Cultivated Turf for a further period of 12 months.

#### **RECOMMENDATION**

- 1** *That Council exercise its option to extend contract CPA/149745 for the Supply, Delivery and Lay of Cultivated Turf with Yarra Turf Supplies Pty Ltd, WE & G Keegan T/as Dooralong Valley Turf and GJ'S Landscapes Pty Ltd for a further period of 12 months from 1 December 2010.*
- 2** *That Council note the estimated total annual expenditure is \$100,000 (excl GST) although actual amount may vary depending upon demand.*

#### **BACKGROUND**

Council resolved unanimously in November 2008:

- "1 That Council accept all tenders (scheduled rates) for the supply, delivery and laying of cultivated turf for a period of one year commencing on 1 December 2008.*
- 2 That Council note total expenditure for cultivated turf is estimated at \$90,000.00 (excl GST) for the initial year."*

This report now considers the option for Council to extend the current contracts for a further period of twelve months.

Council uses approximately 35,000 m<sup>2</sup> of cultivated turf (kikuyu, couch and buffalo) per annum. The turf is used by various Council work crews for general remediation work. In total, Council's recurring requirement for turf is estimated at \$100,000 (excl GST) per annum.

### **4.3 Contract CPA/149745 - Contract Extension for the Supply, Delivery and Lay of Cultivated Turf (contd)**

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The contracts offered were based on three, one year periods (sometimes referred to as a 1+1+1 contract). The contracts commenced from the date of contract commencement on 1 December 2008. Tenderers were originally asked to provide fixed rates for a total of 15 different turf types for an initial twelve month period. The contract also provided for a Rise and Fall price adjustment based upon the Consumer Price Index (CPI) provisions, occurring at the twelve month anniversary of contract award.

The 1+1+1 contract option was nominated to encourage all selected contractors to maintain OH&S pre-qualification requirements and to ensure turf quality was maintained to an acceptable standard.

Tenders were initially called in 2008 for a panel arrangement as no individual entity was considered to have the capacity to supply all of Council's annual turf requirements. Important considerations also included current water restrictions and the ability to access a number of suppliers to ensure Council's need for turf availability, quality and timely supply could continue to be met.

Council's current contractors are Yarra Turf Supplies Pty Ltd, WE & G Keegan T/as Dooralong Valley Turf and GJ'S Landscapes Pty Ltd.

In considering whether to invite new tenders or exercise the option to extend existing contracts by a further twelve months, Council conducted a supplier performance review with all suppliers.

This review confirmed that the performance of all suppliers was acceptable.

A comparison of the current contract rates with general industry standard rates was also carried out. It was found that the current rates (adjusted for CPI in February 2011) continue to provide Council with a competitive financial advantage.

Analysis of turf usage indicated that both Yarra Turf Supplies Pty Ltd and WE & G Keegan T/as Dooralong Valley Turf supply 99% of Council's turf supplies. GJ'S Landscapes Pty Ltd is a Sydney based supplier and are only used on a contingency basis.

Yarra Turf Supplies P/L and WE & G Keegan T/as Dooralong Valley Turf are used on a first priority basis as they are local suppliers and tendered the most competitive rates.

### **PROPOSAL**

It is proposed that the last two optional extensions (one year each) could also be taken up by Council based on satisfactory performance of the appointed suppliers. The first contract extension for \$90K was approved under delegated authority in November 2009. The second and final contract extension requires Council endorsement as the value of the combined extensions (\$190K) exceeds the \$150K Local Government tendering threshold under Section 55 (Tendering) of the Local Government Act 1993.

As an alternative to extending the existing contract Council could re-tender this supply contract to determine if more attractive prices might be obtained. The recent review of general industry rates mentioned above; relatively small number of suitable suppliers; short contract period and costs of re-tendering would indicate that it is in Council's interest to take up the twelve month extension to the existing supply contract. New tenders would then be called towards the middle of 2011.

### **CONCLUSION**

The existing contracts with Yarra Turf Supplies P/L, WE & G Keegan T/as Dooralong Valley Turf and GJ'S Landscapes Pty Ltd continue to meet all of Council's requirements and represents the best value-for-money for Council.

Based on the performance of all contractors the current contractors are considered to be providing a high standard of service at competitive rates.

It is recommended that the option under the contract for a final one year extension for the provision of turf supplies be exercised.

### **ATTACHMENTS**

*Nil.*

#### **4.4 Contract CPA/149748 - Contract Extension for the Supply and Delivery of Traffic Control Equipment and Signage Products**

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TRIM REFERENCE: CPA/149748 - D02489170  
AUTHOR: John McCarthy; Coordinator Purchasing  
MANAGER: Mike Long, Manager Contracts and Project Management

#### **SUMMARY**

This report recommends that Council exercise its option to extend Contract CPA/149748 for the Supply and Delivery of Traffic Control Equipment and Signage for a further period of 12 months.

#### **RECOMMENDATION**

- 1 That Council exercise its option to extend contract CPA/149748 for the Supply and Delivery of Traffic Control Equipment and Signage with Road Signs and Marking Supplies Pty Ltd for a further period of 12 months from 1 December 2010.**
- 2 That Council note the estimated total annual expenditure is \$180,000.00 (excl. GST) but may vary due to actual demand requirements.**

#### **BACKGROUND**

Council unanimously resolved in November 2008:

- "1 That Council accept tender No 1 from Road Signs and Marking Supplies Pty Ltd for a period of two years from the date of acceptance.*
- 2 That Council note the estimated annual expenditure against this contract is \$178,688.00 (excl GST)."*

Council utilises various traffic control equipment and signage devices for the safe management of vehicular and pedestrian traffic in and around work sites. Traffic signage used by Council is of a type used for the regulatory and advisory marking of roadways, as well as for designating street names and facilities. In total, Council acquires 169 different types of traffic control and signage products on a recurring basis.

The supply contract originally awarded to Road Sign and Marking Supplies Pty Ltd was for a two year period commencing from the date of contract commencement (1 December 2008). The contract also provided the option of extending the engagement for a further twelve months subject to satisfactory performance by the contractor.

In considering whether to either invite new tenders or exercise the option under the existing contract to extend the current engagement, Council conducted a supplier performance review with Road Sign and Marking Supplies Pty Ltd.

This review confirmed that the supplier's performance was considered satisfactory.

A comparison of the current contract rates with general industry rates was also carried out. It was found that the current contract rates (adjusted for CPI in February 2011) continue to provide Council with value-for-money.

### **PROPOSAL**

This report now considers the option for Council to extend this contract for a further period of twelve months.

### **OPTION**

As an alternative to extending the existing contract Council could re-tender this supply contract to determine if more attractive prices might be obtained. The recent review of general industry rates mentioned above; relatively small number of suitable suppliers; short contract period and costs of re-tendering would indicate that it is in Council's interest to take up the twelve month extension to the existing supply contract. Fresh tenders would then be called towards the middle of 2011.

### **CONCLUSION**

The existing contract with Road Sign and Marking Supplies Pty Ltd continues to meet all of Council's requirements and represents the best value-for-money for Council. The current contractor is providing a high standard of service at competitive rates. It is recommended that the option under the contract for a one year extension for the provision of traffic signage products be exercised.

### **ATTACHMENTS**

*Nil.*



## **4.5 Contract CPA/174013 - Surface Preparation and Repainting of The Entrance Reservoir**

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TRIM REFERENCE: CPA/174013 - D02379024  
AUTHOR: Michael Cantali, Project Director  
MANAGER: Mike Long, Manager Contracts and Project Management

### **SUMMARY**

Evaluation and selection of tenders for Contract No CPA/174013 Surface Preparation and Repainting of The Entrance Reservoir.

### **RECOMMENDATION**

- 1 That Council accept the tender from Cape (CHS) Pty Ltd for the lump sum amount of \$499,985.00 (excl GST) for Contract CPA/174013 – Surface Preparation and Repainting of The Entrance Reservoir.**
- 2 That for Contract CPA/174013 Council approve a contract budget of \$599,982.00 (excl GST) that provides for a contingency amount of \$99,997.00 (excl GST), representing approximately 20% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

### **BACKGROUND**

The repainting of the steel water reservoir in Gilbert St, Long Jetty is being undertaken to ensure its ongoing function and longevity. The reservoir is approximately 30m in diameter and 20m high with a capacity of 14 Megalitres. It is the oldest steel reservoir in Wyong Shire. Its elevated coastal location has led to accelerated corrosion, necessitating costly preliminary repairs around the service platform at the top of the reservoir for OH&S reasons.

Council currently have access leases to the reservoir and the site with Vodafone, Optus and Telstra with an expiry date of 31/12/2019 with options. This was the result of an earlier Council resolution at the time when the telecommunication authorities lodged a DA with Council for the erection of a mobile phone tower on the site. The reservoir and site is a working area and as such Council is responsible to maintain the infrastructure in a safe condition irrespective as to operational capability.

The reservoir was last painted in 1997. Severe corrosion has since occurred on service platform that has not been repaired due to EMF radiation issues with the reservoir mounted aerials. Discussions have been held with the telecommunication authorities and a series of programmed shutdowns/system changes arranged such that the painting can now be safely undertaken.

Delaying the project by one or two years will increase costs as the preliminary repairs still require final painting and will not resolve the OH&S issues originally raised by the telecommunication authorities. Other expenditure incurred to date on contract and project management, tender procurement and evaluation and consultant fees will be lost. By repairing the corrosion and repainting the exterior the effective life of the reservoir will be increased, providing a cost-effective solution for the ongoing maintenance of this asset.

The scope of work required under the Contract includes scaffolding and encapsulation, preparation of the existing external painted surface by grit blasting, repairs to areas of corrosion; and spray painting. The technical specification was prepared by steel corrosion and coating specialist consultants. The products and systems specified have been selected with advice from the consultants and with the knowledge gained by Council staff on previous works of similar nature.

A significant issue to be managed during the contract will be the control of noise generated by the grit blasting process and its impact on the surrounding residential area. This will be managed through the implementation of a Noise Management Plan; specifying a target noise level; working only at appropriate times when generating noise; and managing the duration of each activity. The work will also have noise levels recorded and monitored. The Contractor will be required to participate in consultations with the community to understand the community's tolerance to noise at various times of the day.

A second significant issue will be the management of dust as the grit blasting generates grit, dust and fragments of the existing paint. For these reasons the work will be carried out inside encapsulated scaffolding, where the dust, grit, and paint will be confined and removed by vacuum. The dust control activities will be documented in an Environmental Management Plan that will be reviewed for acceptance before commencement of the work. Throughout the contract close attention will be given to monitoring the implementation of this Plan.

### **Tender Process**

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 27 July 2010 and the Central Coast Express Advocate on 28 July 2010. Tenders were also advertised on Council's e-Tender website. The advertised closing date was 12 August 2010.

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

A mandatory pre-tender meeting was held at the Council's Administration Building and the reservoir site on 30 July 2010 to describe the environmental issues and to allow tenderers to become familiar with site conditions.

## 4.5 Contract CPA/174013 - Surface Preparation and Repainting of The Entrance Reservoir (contd)

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

No.	Date Issued	Description
1	26/07/10	Change of Contact Person
2	09/08/10	Pre-tender Meeting Minutes and Clarification on Extent of Weld Repairs, Accreditation and Loading on Concrete Apron.

Tenders closed at the Wyong Civic Centre at 2:00 pm on 12 August 2010.

Following the results of trial testing to remove paint from the reservoir it was considered that further evaluation of environmental noise impacts from the type of grit blasting and mechanical dust collection systems being offered was required. Submission of this tender report was therefore delayed while a more detailed Part 5 planning approval was sought that fully addressed this concern. Due to changed meeting requirements this contract report was unable to be submitted to the last meeting of 2010 and was submitted to the first meeting in 2011.

### EVALUATION OF TENDERS

#### Evaluation Process

A panel of three staff members (one of whom was from a unit other than the one managing the procurement process) evaluated the tenders. The evaluation was conducted according to the following process:

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- Short-listing of tenders.
- Detailed weighted evaluation of shortlisted tenders.
- Due diligence checks on preferred tenderers.
- Independent review of the tender selection process.

#### Evaluation Criteria

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

#### Threshold Criteria

- 1 Compliance with Tender documents, including lodgement of tender by specified time.
- 2 Ability to manage financial, environmental, operational and safety risk.

#### Weighted Criteria

- 1 Assessed level of Local Content (Mandatory, refer Local Preference Policy – Procurement)
- 2 Conformity with Specification
- 3 Proposed methodology / construction program

#### 4.5 Contract CPA/174013 - Surface Preparation and Repainting of The Entrance Reservoir (contd)

- 4 The tendered price and structure, as well as any other potential costs to Council that may be identified
- 5 Experience in the specific field and qualifications of personnel
- 6 Past performance
- 7 PCCP Class 3 accreditation or equivalent (CSIRO/APAS) for site application to atmospheric service.

To assess tenders against the evaluation criteria the panel used information obtained from the tender documents and related correspondence, referees and an external advisor.

#### Assessment of Receipt

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

Tender No	Tenderer	Tendered Lump Sum (Ex. GST)	Status
1	Cape CHS Pty Ltd	\$497,935.00 <\$499,985.00*>	Submitted on time
2	Contract Resources Pty Ltd	\$511,299.00	Submitted on time
3	Dukes Painting Services Pty Ltd	\$513,413.04	Submitted on time**
4	Giovenco Industries Aust Pty Ltd (Offer 1)	\$551,000.00	Submitted in time
5	Giovenco Industries Aust Pty Ltd (Offer 2)	\$486,000.00	Submitted on time
6	KGB Coatings Site Services Pty Ltd	\$685,557.00	Submitted on time
7	Transpacific Industrial Solutions Pty Ltd	\$381,375.00	Submitted on time
8	W & K Family Trust	\$1,076,351.00	Submitted on time

\*Tender No 1 (from Cape CHS Pty Ltd) was adjusted to correct an addition error. This adjustment was clarified and accepted by tenderer.

\*\*Tender No 3 (from Dukes Painting Services Pty Ltd) was loaded onto the e-Tender web site 19 minutes after the closing time, however a hard copy tender submission was also lodged in the Tender Box before the 2.00 pm close time. This was accepted.

All tenders were progressed to the next stage of evaluation.

#### Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements, including the Request for Tender, the Returnable Schedules, and the Technical Specification.

Tender No 1 (Cape CHS Pty Ltd) did not include the specific details of the company's Safety Management System, Environmental Management System, Quality Management System, Insurances and Bank Details. Clarification was sought regarding these minor omissions and they were submitted. Tender No. 1 was therefore found to be substantially conforming and was progressed to the next stage of evaluation.

#### 4.5 Contract CPA/174013 - Surface Preparation and Repainting of The Entrance Reservoir (contd)

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Tender No 2 (from Contract Resources Pty Ltd) included qualifications related to latent conditions and protection of people and property. The Panel sought clarification on the qualifications and the tenderer subsequently withdrew them with no change requested to its tendered price. After the withdrawal Tender No 2 was found to be fully conforming and was progressed to the next stage of evaluation.

Tender No 3 (from Dukes Painting Services Pty Ltd) did not include a construction methodology or program. Returnable Schedule 12 – Additional Documents to be submitted, detailed the requirements for a Proposed Methodology/Construction Program to be submitted, as these documents describe significant components of the offer. Because these important documents were not submitted, Tender No 3 was considered to be non-conforming and was not progressed further.

Tender No 4 (from Giovenco Industries Aust Pty Ltd – Offer 1) contained substantial departures related to environmental management and compliance with the requirements for managing noise. The departures, if accepted, would see Council responsible for the risks associated with the generation of noise from the works, and effectively reduce the tenderer's liability in the management of noise and community liaison. Given the significant nature of the departures Tender No 4 was considered nonconforming and was not progressed further.

Tender No 5 (from Giovenco Industries Aust Pty Ltd – Offer 2), similar to Tender No 4, contained significant departures that related to environmental and noise compliance. The departures, if accepted, would effectively relieve the tenderer of any liability regarding these sensitive issues. Given the nature of the departures, Tender No. 5 was considered non-conforming and was not progressed further.

Tender No 6 (from KGB Coatings Site Services Pty Ltd) did not include a construction programme or methodology. Returnable Schedule 12 – Additional Documents to be submitted, detailed the requirement for submission of a Proposed Methodology/ Construction Program, as these documents describe significant components of the offer. Because these important documents were not submitted, Tender No 6 was considered non-conforming and was not progressed further.

Tender No 7 (from Transpacific Industrial Solutions Pty Ltd) included qualifications regarding indemnity and insurance. The Panel sought clarification on the qualifications and the tenderer subsequently withdrew them with no change requested to the tendered price. After the withdrawal, Tender No 7 was found to be substantially conforming and was progressed to the next stage of evaluation.

Tender No 8 (from W & K Family Trust trading as Extreme Industrial Coatings) included a number of minor qualifications and departures. In all other respects, the tender submission was conforming and the Panel considered Tender No 8 to be substantially conforming. It was progressed to the next stage of evaluation.

#### **Short-listing**

Tenders were short-listed against Criterion No 6 – Price.

## 4.5 Contract CPA/174013 - Surface Preparation and Repainting of The Entrance Reservoir (contd)

Tender Nos 1 (from Cape CHS Pty Ltd), 2 (from Contract Resources Pty Ltd), and 7 (from Transpacific Industrial Solutions Pty Ltd) tendered competitive prices that were well below Council's pre-tender estimate for this work. These three tenders were all progressed to a full weighted evaluation.

Tender No 8 (from W & K Family Trust) tendered an amount higher than the pre-tender estimate and substantially higher than the lowest priced tender. The reason for the substantial difference was due to generally higher amounts tendered for all items of work, but particularly the amounts tendered for full scaffolding and surface preparation. Even with high scores in the non-price criteria, due to the substantial price difference Tender No 8 would not be competitive. Tender No 8 was not progressed to a full weighted evaluation.

### Weighted Evaluation

Evaluation scoring was conducted in two stages:

- 1 Prior to application of Council's Local Preference Policy to establish the Most Competitive Offer, and
- 2 Following application of the Local Preference Policy for the assessment of Local Content to establish the Preferred Offer.

#### 1 - Scoring - Pre-Application of the Local Preference Policy

To establish the Most Competitive Offer, tenders were scored against the weighted evaluation criteria (other than Local Content), and are listed below in descending order of weighted evaluation.

Tender No.	Tenderer	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score (Pre application of Local Preference)
			Most Competitive Offer
1	Cape CHS Pty Ltd	\$499,985.00	70.4
2	Contract Resources Pty Ltd	\$511,299.00	69.5
7	Transpacific Industrial Solutions Pty Ltd	\$381,375.00	68.0

Tender No 1 (from Cape (CHS) Pty Ltd), scored very well across all weighted criteria and was found to be the most competitive offer after the weighted evaluation. Referee checks, coupled with advice from the Technical Consultant, showed that Cape (CHS) Pty Ltd has extensive experience and proven performance on jobs of similar scale and nature. Previous projects had also required a very high level of environmental and quality management. Cape demonstrated superior abilities and scored the highest in the fields of past performance, experience and qualifications, and holds PCCP Class 3 accreditation. Tender No 1 was found to be the most competitive offer.

**4.5 Contract CPA/174013 - Surface Preparation and Repainting of The Entrance Reservoir (contd)**

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Tender No 2 (from Contract Resources Pty Ltd) scored well in the Proposed Methodology and Construction Programme criterion with a superior submission. Sound referee checks confirmed the company's abilities with projects of a similar scale and nature. Contract Resources also scored well in the fields of past performance, experience and qualifications and holds PCCP Class 3 accreditation. The price tendered was the highest of the shortlisted tenders, and therefore scored less in this criterion. With Tender No 2 scoring less favourably in the price criterion, it was found to be the second most competitive offer.

Tender No 8 (from Transpacific Industrial Services Pty Ltd) scored highest on the price criterion, however the amount tendered for environmental activities was comparatively very low, i.e. \$7,500 compared to the other shortlisted tenders of \$91,250 and \$81,560 respectively, indicating a lower level of service in this important area. The projects offered to demonstrate experience and performance for the referees did not involve detailed or complex environmental requirements. Together with the low amount tendered for environmental management, the Panel saw this as an indication of a poor understanding of the environmental requirements of the contract. The submission offered only an elementary Construction Programme and Methodology that did not describe the approach clearly. While the referees provided spoke well of the company, the works previously performed did not compare to the scale and nature of this contract. Furthermore, because Transpacific does not hold PCCP Class 3 accreditation, scores in a number of fields were low. Tender No 8 scored less well and was the least competitive offer.

Overall, Tender No 1 scored higher than Tender Nos 2 and 8 and as a result was seen as the Most Competitive Offer.

**2 – Scoring Post Application of Local Preference Policy**

Tenders were then assessed for Local Content in accordance with Council's Local Preference Policy to identify the **Preferred Offer**.

The application of the Local Preference Policy to this tender imposed the following criteria in relation to the financial impact in considering a Preferred Offer:

*(Refer to clause E.7 of policy).*

<b>Policy Criteria</b>	<b>Criteria Applied to Tender Assessment</b>
Category of Contract	Works
Method to Determine Financial Impact Limitations	3% above price component of Most Competitive Offer, with a maximum of \$15,000 applicable to this category of contract
Price Component of Most Competitive Offer	\$499,985.00
Financial Impact Limitation To Be Applied to Preferred Offer	\$14,999.55

The following summarises scoring for the assessed value of Local Content. Tenders are listed in descending order of **Preferred Offers** following assessment.

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score
			(Pre-application of Local Preference)		(Post application of Local Preference)
			Most Competitive Offer	Preferred Offer	
1	Cape (CHS) Pty Ltd	\$499,985.00	70.4	\$470,794.00	79.8
8	Transpacific Industrial Solutions Pty Ltd	\$381,375.00	68.0	\$107,950.00	70.8
2	Contract Resources Pty Ltd	\$511,299.00	69.5	\$14,900.00	69.8

Following assessment of Local Content, there was no change to the ranking of the Most Competitive Tender. Tender No 1 became more attractive as it is from a local company with premises at Somersby.

### **Due Diligence**

Tender No 1 from Cape (CHS) Pty Ltd was subjected to a financial assessment, an in-house safety/environment system assessment, referee checks and advice from the project's Technical Consultant.

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

Cape (CHS) Pty Ltd is a Somersby-based contractor with a history of successfully completed contracts similar in nature and scope to the current works. The company has in place fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

This company has agreed to hold its tendered price to allow this tender report to be considered at the first Ordinary Meeting in February 2011.

### **RISK ASSESSMENT**

#### **General**

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



## **4.5 Contract CPA/174013 - Surface Preparation and Repainting of The Entrance Reservoir (contd)**

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Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

### **Contract Risks**

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

### **Generic Risks**

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

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits and inspections.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

### **Specific Risks Leading to Contract Variations**

Following are the major specific risks that Council bears in relation to this contract:

- Community reaction to the noise generated by the high pressure grit blasting of the empty steel tank may be adverse. This has been mitigated by a site specific Environmental Noise Management Plan as required by the Part 5 planning approvals for the grit blasting and dust collection system, together with community consultation.
- Adverse weather conditions, such as windy conditions and rain may delay completion time and increase costs. These conditions may validate an extension of time to the contract period with no additional costs.

### **Risk Contingency**

The above risks are considered high for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$99,997.00 (excl GST) representing approximately 20% of the contract sum be approved.

#### **4.5 Contract CPA/174013 - Surface Preparation and Repainting of The Entrance Reservoir (contd)**

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Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a high probability that the contract budget of \$599,982.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

#### **BUDGET**

Project funds of \$995,000.00 are available from the following sources. All amounts shown are exclusive of GST:

Capital Works Funding	\$995,000.00
Total project budget	\$995,000.00

#### **TIME-FRAME**

The work under this one-off contract is anticipated to commence in early March 2011. The Contract Period as stipulated in the Contract is 26 weeks from the date of the Letter of Acceptance.

#### **APPROVALS**

A Part 5 approval in relation to environmental issues, particularly noise impact during the grit blasting operation has been assessed and approved.

#### **COMMUNITY CONSULTATION**

A letter box drop of surrounding houses in Gilbert Street, Eloora Road and Nirvana Street was undertaken in mid – November 2010, including a visit by a staff member to the childcare centre in Kitchener Road, Long Jetty, advising of the proposed maintenance work, and the proposed meeting with local residents including Council contact details for additional information.

A further site meeting was held with residents on 19 November 2010 to advise of the proposed work and possible inconvenience.

#### **CONCLUSION**

Tender No 1 from (from Cape (CHS) Pty Ltd), is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that the tender be accepted.

#### **ATTACHMENTS**

*Nil.*

#### **4.6 Contract CPA/184454 - Soldiers Beach Surf Life Saving Club - Alterations Proposed by the Club**

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TRIM REFERENCE: CPA/184454 - D02493186

AUTHOR: Robert Fulcher; Manager Asset Management

#### **SUMMARY**

Approval is sought to proceed with alterations to the approved design of the new building, as proposed by the Soldiers Beach Surf Life Saving Club (SBSLSC) and to agreeing to the deferral of the Club's payment for the cost of the alterations until 30 June 2011.

#### **RECOMMENDATION**

- 1** *That subject to approval being given for an appropriate modification under Section 96 of the EP&A Act, Council agree to proceed with alterations to the approved design of the new Soldiers Beach Surf Life Saving Club building*
- 2** *That Council notes the alteration costs to be paid for by the Club, on a deferred payment basis with full payment to be made on 1 July 2011.*

#### **BACKGROUND**

Council resolved unanimously in September 2010:

- "1 That Council accept the tender from National Buildplan Group Pty Limited for the lump sum amount of \$2,503,904.00 (excl GST) for Contract CPA/184454 – Soldiers Beach SLSC Construction.*
- 2 That for Contract CPA/184454, Council approve a contract budget of \$2,804,400.00 (excl GST) that provides for a contingency amount of \$280,440.00 (excl GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.*
- 3 That Council consider a report on what suitable environmental and amenity enhancements can be achieved with the new surf club buildings. This report be provided to council within four weeks."*

A report as requested for involved in Item 3 was submitted to Councils meeting of 8 December 2010 at which it was resolved that Council receive the report on ESD and Architectural Improvements.

#### **4.6 Contract CPA/184454 - Soldiers Beach Surf Life Saving Club - Alterations Proposed by the Club (contd)**

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By email to the Mayor, dated 18 October 2010, the club advised Council that it had established a building committee on 26 September 2010. That committee had some concerns about the design and proposed some amendments. A number of meetings were held with members of the SBSLSC, commencing on 21 October 2010 to discuss the proposed amendments. These meetings acknowledged the challenges that amendments presented to the project budget and the required completion date by the need for the necessary approvals and increased costs. They were held in good faith and resulted in a number of agreed proposals.

Those proposals and preliminary estimates were, generally:

- (a) Reversing the location of the First Aid Room and the Life Guard Room on the ground floor – no extra cost
- (b) Reversing the location of the Office and a store room on the ground floor – no extra cost
- (c) Providing an additional roller shutter to the northern elevation of the ground floor – estimated cost \$17,000 plus GST – Club to meet cost
- (d) Replacing sliding doors with concertina doors on the first floor in function Room 1, to enhance commercial viability – estimated cost \$14,000 plus GST – Club to meet cost
- (e) Extending the area of Function Room 2 on the first floor – estimated cost \$18,000 plus GST – Club to meet cost.

#### **PROPOSAL**

It is proposed that Council favourably consider approval of SBSCS Club's request to amend the design of the new Soldiers Beach Clubhouse.

Projected construction expenditure for both Shelly and Soldiers Beach surf clubs is \$6.5M.

An amount \$8M of funding has been allocated for Surf Club redevelopment projects. The Federal Government has provided \$5M and Council has committed \$3M.

The available project funding of \$8M has been fully allocated as follows:

- New building works \$6,500,000
- Road and car park works \$750,000
- Three Surf club refurbishments/upgrades \$750,000

Total \$8,000,000

This report deals with the matter of proposed amendments by the Soldiers Beach Surf Life Saving Club to the building works involved in council's contract with National Buildplan Group Pty Limited.

Council was advised of grant funding approval on 15 June 2010. The grant funding agreement was subsequently approved and finalised on 29 June 2010. The Funding Agreement requires funded activities to be completed by 30 June 2011.

The limited funding and the tight construction timetable have been managed closely. Council consulted with the SBSLSC on the design of the new building and by email dated 22 March

**4.6 Contract CPA/184454 - Soldiers Beach Surf Life Saving Club - Alterations Proposed by the Club (contd)**

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2010, from the Club's President, advised that "the club committee met on the weekend to discuss the latest draft and is happy with the result so far.....I would like to thank council for allowing the club to have substantial input into the design process". On this basis, staff were confident in the design that was put to tender and the tender that was accepted on 22 September 2010.

Associated issues relating to these changes include:

- (a) Amending the agreement with the Department of Regional Australia who are providing \$5M funding &
- (b) Submitting a Section 96 application to vary the Consent.
- (c) Obtaining cost estimates from the builder for each of the alteration proposals. It is these firm costs that the club will be asked to meet, to eliminate the risk of further cost variations.

An amended agreement has been received from the Department and is ready for signature pending Council's consideration of this matter.

Andrews Neil Architects has provided a fee proposal to prepare and submit a Section 96 application – this cost has been included in the estimates submitted to the Club.

The Club has been advised that Council will not consider any alterations which will delay the project and potentially put in jeopardy Federal Funding. Options (a), (b), (d) and (e) can be incorporated into the programme without delaying the works. The timeframe for incorporating option C has passed. The Club has been consulted and accepts the fact that Option C is no longer available.

**OPTIONS**

The alternative options are:

- 1 To require the Clubs to pay for the alteration up front, or
- 2 To not agree to the requested alterations.

The first option will adversely affect the Club's investments. The second option may adversely affect the future revenue capacity of the Club building.

**CONSULTATION**

The following schedule summarises some of the many discussions held on these matters.

<b>Date</b>	<b>Discussion</b>
17/10/10	Club emailed Mayor requesting changes
21/10/10	Meeting held with Council's officers and Club – discussed changes
21/10/10	Council advised Club that the changes would delay the project and they would require written support from Craig Thomson MP to delay the project and guarantee ongoing Funding beyond 30/6/11.

<b>Date</b>	<b>Discussion</b>
22/10/10	Council confirmed support for changes A & B. Noted requirement to obtain Section 96 approval, Club to commit to funding changes and also noted the RLCIP agreement will need amendment.
25/10/10	Council reconfirmed it requires Club's commitments as outlined in correspondence of 22/10/10.
3/11/10	Council wrote to Club advising the following funding terms: "With regard to the Club funding the additional works, Council requires a letter of Financial Commitment from the Club for all changes and will also require upfront payment for the Works".
7/11/10	Club responded to above –agrees to pay, but no payment received.
1/12/10	Club requested meeting with the Mayor to discuss timing of payment for alterations. Club noted that their funds are tied up until 30/6/11 and requested payment be deferred until maturity of the investments.
20/12/10	GM issued a letter of offer to the Club's request on funding, as follows  a) that, if council agrees to a deferred payment, you enter an agreement by exchange of letters to make payment in full on 30 June 2011. b) that, if Council does not agree to a deferred payment, that you agree to make any outstanding payments by 18 February 2011 and any subsequently due payments prior to the agreed alteration work proceeding
14/1/11	Club signed agreement.

### **CORPORATE RISKS**

There is a minor risk that the Club may not be able to honour its agreement. This risk is being mitigated by the proposed agreement by exchange of letters.

### **CONCLUSION**

Options (a), (b), (d) and (e) can be incorporated in the current programme without delaying the works. The alterations should improve the long term financial viability of the Club's operations.

The Club has been provided valuations for the proposed alterations and has agreed to meet the cost of the works.

Interim funding of the works can be met by the contract contingency.

It is recommended Council agree to the deferred funding requested by the Club and a suitable agreement be prepared for execution.

### **ATTACHMENTS**

*Nil.*

#### **4.7 Contract CPA/187074 - Provision of Project Management Services for the Mardi to Mangrove Project Link**

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TRIM REFERENCE: CPA/187074 - D02493331  
AUTHOR: Julie Vigar; Project Support Officer  
MANAGER: Mike Long, Manager Contracts and Project Management

#### **SUMMARY**

Evaluation and selection of tenders for Contract CPA/187074 – Provision of Project Management Services for the Mardi to Mangrove Link Project.

#### **RECOMMENDATION**

- 1 That Council declines to accept any of the tenders for the proposed contract.**
- 2 That Council cancels the proposal for the contract.**
- 3 That Council endorses the continuation of the current project management arrangements to Easter 2011 due to the material public benefit.**
- 4 Council calls for competitive quotes to deal with any outstanding contract/property matters.**

#### **BACKGROUND**

Council resolved unanimously December 2010 resolved:

- “1 That Council defer its decision to award a contract until it next meets in February 2011 to allow time to consider alternative options.*
- 2 That Council endorse the continuation of the current project management arrangements due to the material public benefit.”*

The evaluation of tenders presented to Council at the above meeting identified:

- The Preferred Offer (after the application of the Local Preference Policy) was from Strategic Management Centre Pty Ltd.
- Four of the personnel offered by Strategic Management Centre Pty Ltd are the current incumbents of the positions of Project Manager, Project Accountant, Project Property Manager and Landholder Liaison Manager currently engaged under a “Body Hire” arrangement.
- Award of the proposed contract to Strategic Management Centre Pty Ltd would incur Council in an additional cost of \$161,360.00 to retain the same personnel performing the same services. This additional cost represents a 25% increase over the cost to Council of the current “Body Hire” arrangements.

Two options were identified to Council to consider.

The first was to award the proposed contract to the preferred tenderer, Strategic Management Centre Pty Ltd.

The second was to decline to accept any of the tenders received and enter into negotiations with Strategic Management Centre Pty Ltd and such other entities as may be considered appropriate with the aim of forming a contract at prices more favourable to Council and more in line with the rates currently being paid. An associated consideration with this course of action was to engage an independent probity expert, not involved with the tender assessment to date, to advise on the probity of Council embarking on such action.

## **PROPOSAL**

There is a risk that negotiations with Strategic Management Centre Pty Ltd or any other entity will not produce a better commercial outcome than the present tenders under consideration and may not be as commercially advantageous as the present "Body Hire" arrangements.

The present open public tender exercise clearly demonstrates that retaining the existing incumbents under the present "Body Hire" arrangements results in the most favourable expenditure of public monies and best value-for-money for Council.

In accordance with the requirements of the Local Government (General) Regulation 2005 in respect to the acceptance of tenders, it is proposed:

- To not accept any tenders
- To cancel the proposal for the contract
- To continue the current project management arrangements to Easter 2011.
- To continue to utilise staff resources to finalise the project.
- Where there is an insufficient short fall of resources, Council will call for competitive quotes to deal with any outstanding contract/property matters.

## **CONCLUSION**

It is considered the best alternative option is to continue the current "Body Hire" arrangements with the current project management staff until the end of the project, expected to be in April 2011 (subject to any weather delays impacting on the project), and to utilise existing staff to undertake project management tasks beyond this period.

## **ATTACHMENTS**

*Nil.*



#### **4.8 Contract CPA/188701 - Supply and Delivery of Bulk Cationic Rapid Setting Grade Bitumen Emulsion**

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TRIM REFERENCE: CPA/188701 - D02475664  
AUTHOR: John McCarthy, Coordinator Purchasing  
MANAGER: Mike Long, Manager Contracts and Project Management

#### **SUMMARY**

Evaluation and selection of tenders for Hunter Council's Contract CPA/188707 – Supply and Delivery of Bulk Cationic Rapid Setting Grade Bitumen Emulsion.

#### **RECOMMENDATION**

- 1 That Council agree to the contract between Hunter Councils Inc. and Downer EDI Works for the supply and delivery of Bulk Cationic Rapid Setting Grade Bitumen Emulsion, subject to all member Councils of Hunter Councils Inc. agreeing to participate.**
- 2 That Council authorise the estimated expenditure on Bulk Cationic Rapid Setting Grade Bitumen Emulsion for Wyong Shire at \$828,000.00 (ex GST) for the contract period.**
- 3 That Council authorise the General Manager to agree to an option to extend the contract for a further 12 month period based on satisfactory performance and price.**
- 4 That Council note that whilst this Council's estimated annual expenditure against this contract is \$276,000.00 (excl GST), actual expenditure may vary significantly with fluctuations in demand.**

#### **BACKGROUND**

Council purchases approximately 400,000 litres of Bulk Cationic Rapid Setting Grade Bitumen Emulsion per annum. Annual expenditure is in the vicinity of \$276,000.00 (ex GST). This material is used in the construction and maintenance of road pavement surfaces.

The tender for the supply of emulsion was conducted by Hunter Councils Inc. on behalf of member Councils. Wyong Shire Council is an associate member for the purposes of participating in joint tendering and contracting arrangements (Gosford City Council is also an associate member). Hunter Councils Inc. receive a management fee from the appointed contractor of 1.5% of the total spend made under the contract. Provision for the management fee is included in tendered rates.

Eight member Councils of Hunter Councils Inc. have participated in this tender with the combined volume of Bulk Cationic Rapid Setting Grade Bitumen Emulsion tendered being over one million litres per annum. The aggregated volume provides this Council with the opportunity to achieve cost savings and added benefits that may not have been otherwise achievable under a Council-specific tender.

The tender was called on the basis of appointing a single supplier for all Councils. All participating Councils must also individually agree to accept the tender recommendations in order for rates to become effective.

Council's current contract is with Downer EDI Works under Hunter Council Inc. contract number CPA/128566 and has run successfully for a period of three years. This contract expired on the 31 December 2010.

### **Tender Process**

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on the 12 October 2010 and the Newcastle Herald on the 16 October 2010. Tenders were also advertised on Hunter Council's Inc. e-Tender website. The advertised closing date was 2 November 2010. Hunter Council Inc. required a Schedule of Rates tender based on a detailed specification.

### **EVALUATION OF TENDERS**

Tenders were evaluated by a panel of three staff members consisting of representatives from Hunter Councils Inc. and Gosford City Council using the following threshold and weighted criteria:

Threshold Criteria:

- 1 Conformance with the requirements of the tender documents.

Weighted Criteria:

- 1 Price including delivery surcharge
- 2 Price for cleaning
- 3 Referees
- 4 Quality Assurance
- 5 OH&S
- 6 Current commitments
- 7 Ecological Sustainable Development.

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

The evaluation was conducted according to the following process.

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

**4.8 Contract CPA/188701 - Supply and Delivery of Bulk Cationic Rapid Setting Grade Bitumen Emulsion (contd)**

- Detailed weighted evaluation of shortlisted tenders.
- Due diligence checks on preferred tenderers.

**Assessment of Receipt**

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

**Table 1 - Tenders Received**

Tender No	Tenderer	Aggregated tendered price based on estimated annual usage of Emulsion multiplied by tendered price (Ex. GST)	Status
1	Bitupave Pty Ltd T/as Boral Asphalt	\$291,600.00	Submitted on time
2	Downer EDI Works	\$276,000.00	Submitted on time
3	Fulton Hogan Industries Pty Ltd	\$276,000.00	Submitted on time

**Assessment of Conformance**

All tenderers were assessed against mandatory criteria. All offers were considered to be conforming and were progressed to the weighted evaluation stage.

**Weighted Evaluation**

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

**Table 2 - Weighted Evaluation Scoring**

Tender No	Tenderer	Aggregated tendered price based on estimated annual usage of Emulsion multiplied by tendered price (Ex. GST)	Score
2	Downer EDI Works	\$276,000.00	96
1	Bitupave Pty Ltd T/as Boral Asphalt	\$291,600.00	69
3	Fulton Hogan Industries Pty Ltd	\$276,000.00	63

Tender No.2 (from Downer EDI Works) achieved the highest total score taking into account price and non-price criteria.

Tender No.2 (from Downer EDI Works) offered pricing with all-inclusive cartage costs that were the same regardless of the load sizes ordered by each Council. This variable has been

factored into the scoring and reflects the higher rating of Downer EDI Works relative to the other suppliers.

Although Tender No.2 from Downer EDI Works and tender No.3 from Fulton Hogan Industries Pty Ltd had the same aggregated estimated annual costs, Fulton Hogan Industries Pty Ltd achieved a lower overall score as the tendered rates for delivery increased significantly for smaller batch loads (i.e. loads under 3,000 litres). This would potentially increase the actual annual costs depending upon Council's replenishment requirements.

Hunter Councils Inc. assessed pricing is based on a total cost to all Councils. The scoring above is therefore reflective of both price and non price criteria scored across all eight Councils, not just Wyong Council.

### **Due Diligence**

On the basis of the information provided by the tenderer and independent referees, it is considered that Tender No.2 from Downer EDI Works possesses all of the technical, financial and managerial resources necessary to satisfactorily supply Council with Bulk Cationic Rapid Setting Bitumen Emulsion.

Downer EDI Works has successfully supplied Council with Bitumen Emulsion for the last three years with no problems.

The company has in place a fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

### **LOCAL PREFERENCE POLICY**

Under clause F1 of Council's Local Preference Policy, application of the policy does not apply as the entity calling the contract "Hunter Council Inc." is representing the interests of eight Local Government areas.

All suppliers' principal addresses are located outside of the Central Coast region and all materials offered from tenderers are manufactured and delivered from outside of the Central Coast. Had the Local Preference Policy been applied, it would not have influenced the decision as all suppliers are located outside the Central Coast region.

### **RISK ASSESSMENT**

Contracting work inherently contains generic risks found in most contracting situations. Specific risks related to individual contracts lead to variations in the work which may generate increased costs.

#### **Generic Risks**

Generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to non supply of materials. Mitigated through referee checks. Should Downer EDI Works not be in a position to supply Council, other suppliers can be contracted.

#### **4.8 Contract CPA/188701 - Supply and Delivery of Bulk Cationic Rapid Setting Grade Bitumen Emulsion (contd)**

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- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Hunter Council Inc General Conditions of Contract, which include dispute resolution mechanisms.

#### **Specific Risks**

Specific risks that Council may encounter in relation to this contract and mitigating factors include:

- The quality of the product is sub-standard resulting in additional costs. Mitigated by demonstrated conformance that materials meet RTA specifications for Bulk Cationic Rapid Setting Bitumen Emulsion.
- The price of materials may increase significantly and will impact the contractor's price to Council for ongoing supply of Bulk Cationic Rapid Setting Bitumen Emulsion. The contract allows for the rise and fall in the price of materials to be passed on to Council.
- Risk of estimated volumes not being met resulting in higher rates being applied by the contractor. Mitigated through contract conditions that stipulate requirements are an approximate quantity only and are not a commitment to buy.

#### **Risk Materiality**

The risk profile for this contract is Low. The above risks are considered to be unlikely or immaterial given the value of the contract and the nature of the work.

#### **FINANCE**

As the contract is of the nature of a standing offer arrangement, purchases will be funded from responsibility centres as transactions are processed, rather than from an allocation made to this contract itself. The estimated value of the arrangement is therefore not a budget figure, but rather it is simply an indication of the overall scope of the arrangement.

Although the estimated value of the arrangement for Wyong Council is \$828,000.00 over 3 years, the actual value will depend on the quantities ordered as requirements arise over the life of the arrangement. The total amount ordered under this arrangement could therefore vary significantly if demand patterns alter for these products.

#### **TIME FRAME**

The existing contract expired on the 31 December 2010. The new contract is proposed to operate from a commencement date of 1 January 2011.

The contract term is for a 2 year period with an optional 1 year extension based on satisfactory performance.

**APPROVALS**

No other approvals are required.

**CONCLUSION**

Tender No.2 (from Downer EDI Works) is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that Council accept the Hunter Councils Inc. tender from Downer EDI Works for the Supply and Delivery of Bulk Cationic Rapid Setting Grade Bitumen Emulsion for a period of three years.

**ATTACHMENTS**

*Nil.*

## 5.1 Contract Variations and Finalisation - October, November and December 2010

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TRIM REFERENCE: D02453918  
AUTHOR: John McCarthy, Supply Coordinator  
MANAGER: Mike Long, Manager Contracts and Project Management

### SUMMARY

This paper reports on variations, proposed variations or finalisations to contracts with a value greater than \$150,000 (excl GST).

The report covers contract variations and finalisations processed in October, November and December 2010.

### RECOMMENDATION

- 1 ***That Council receive the Contract Variations and Finalisation October, November and December 2010 report.***
- 2 ***That Council approve additional expenditure above resolved estimates for the following contract:***

<b><i>Contract Title</i></b>	<b><i>Contract No</i></b>	<b><i>Additional Expenditure</i></b>
<b><i>Detailed Design, Goorama Avenue, San Remo. Emu Drive to Highview Avenue upgrading</i></b>	<b><i>2477</i></b>	<b><i>\$160,068.70</i></b>

- 3 ***That Council note the additional expenditure requested has been funded through both previous and current years Roads & Drainage rolling work programs.***

### BACKGROUND

Contracts entered into by Council are awarded either by Council resolution or under delegated authority. The Local Government Act 1993 (s.55) requires that contracts of an estimated value greater than \$150,000.00 (excl GST) must be publicly tendered and approved by Council resolution.

Contracts of an estimated value less than \$150,000.00 (excl GST) are awarded under delegations made by Council to the General Manager or his/her delegate.

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

All contracts commonly include a contingency sum to cover unforeseen changes. It is generally expressed as a percentage of the contract value, normally 10% of the contract value, but varies between 5% and 30%, or is expressed as a specific dollar value.

## 5.1 Contract Variations and Finalisation - October, November and December 2010 (contd)

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The need to vary contracts (explained above) arises out of differences in estimating strategies where two extremes denote a range of risk that offers Council a choice of budget/estimate methodology.

Council estimates on the basis of known costs of assessment, design and construction. This approach allows budgets to maximise the number of works in an annual program, at the optimal risk level of programs being materially curtailed as unforeseen needs arise.

Budgets for projects are established within the Annual Plan. When tenders are called, specific approvals are sought from Council in accordance with s.55 of the Act. It is not uncommon for additional approvals to be sought within the approved project budget as unforecast changes (from the tender approval) occur in the works.

### THE PROPOSAL

The report for the October 2010 period includes a requirement to seek Council's formal approval for additional funding to ensure compliance with s.55 of the Local Government Act.

The approval of expenditure for contract 2477 for the Detailed Design, of Goorama Avenue, San Remo. Emu Drive to Highway Avenue upgrading had previously been approved under delegated authority. Details of the nine variations authorised between October 2005 and July 2007 are provided in the Attachment 1. All contract variations had been approved prior to Council's requirement to report all contract variations to Council. The final payment of \$18,040.00 processed in October 2010 has initiated the requirement to report retrospectively, all contract variations for this contract.

### Summary for October, November and December periods.

Contracts processed in October 2010	8
Contracts processed in November 2010	5
Contracts processed in December 2010	5
Contracts requiring increase to the contract budget estimate	1
Contract where current funds are sufficient to complete	17
Contracts finalised in October 2010	0
Contracts finalised in November 2010	6
Contracts finalised in December 2010	0

### OPTIONS

The variations reported in Attachments 1, 2 and 3 were required to ensure the reported contracts could be progressed in a timely and effective manner to deliver best value for Council and ensure compliance with the contract conditions.

Council's endorsement of, and approval to, these variations is the recommended option to ensure sufficient approved funds are available for contract payments to be made.

### STRATEGIC LINKS

Strategic links for the various contracts were identified in the initial assessment and approval reports for each contract.



**FINANCIAL IMPLICATIONS**

Additional expenditure for the Detailed Design, of Goorama Avenue, San Remo Emu Drive to Highview Avenue upgrading contract has been funded from previous capital budgets for Roads & Drainage.

However, the final contract payment of \$18,040.00 ex GST will require a budget adjustment to the 2010/11 to the Roads & Drainage Capital works program.

**PRINCIPLES OF SUSTAINABILITY**

This proposal applies good governance improving WSC processes by being consistent and demonstrating a sound basis for the variation of contract estimates to ensure better outcomes for the community via appropriate allocation of resources.

**CONSULTATION**

Consultation has occurred with all Contract Officers responsible for the management of contracts reported in Attachments 1, 2 and 3.

**GOVERNANCE**

These contract variations are reported to Council to ensure compliance with Section 55 of the Local Government Act.

**CORPORATE RISKS**

This report contributes to the mitigation the following risks identified in WSC Risk Register:

<b>Identified Risk</b>	<b>Rating</b>	<b>Actions to Mitigate</b>
<p><b>Budget Control</b> Inadequate budget control that creates significant funding shortfalls leading to an inability to provide priority services. (shorter-term consequence)</p>	Moderate	Monthly reporting of variations.
<p><b>Legislative Requirements</b> Council non-compliance with legislative requirements leading to penalties, civil claims and/or contractual disputes.</p>	Low	<ul style="list-style-type: none"> <li>- Monthly reporting of variations.</li> <li>- Local Government Act requirements in relation to Tenders.</li> </ul>

**CONCLUSION**

Variations detailed in this report are driven by “normal” contract issues.

**5.1 Contract Variations and Finalisation - October, November and December 2010 (contd)**

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The contracts are generally within their planned expenditure in terms of coverage, quantity and quality albeit some may exceed the timeframes originally calculated for the schedule estimates.

**ATTACHMENTS**

1	Contract Variations for October 2010	D02455385
2	Contract Variations for November 2010	
3	Contract Variations for December 2010	D02493072
4	Contract Finalised for November 2010	D02483175

### Detailed Design, Goorama Avenue, San Remo. Emu Drive to Highview Avenue upgrading.

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date
2477	Nil	Cardno (NSW) Pty Ltd	\$129,800.00	Nil	Nil	160,068.70	160,068.70	289,868.70	General Fund	289,868.70
<b>Individual Variations For Reporting Period</b>										
		Description	Value \$				Description	Value \$		
Variation 1 - 24/10/05: Additional drainage analysis for larger storm events than originally proposed. Additional modelling for 200-year, 500-year and Probable Maximum Flood storm events.			7,854.00				Variation 2 - 21/12/05: It was identified early in the concept design stage that more comprehensive traffic investigations were required to assist in selection of the most appropriate traffic calming devices throughout San Remo, rather than just along Goorama Ave. This additional work comprised the creation of two strategic options for a Local Area Traffic Management scheme encompassing San Remo, journey time surveys and traffic calming device selection.	37,752.00		
Variation 2a - 23/5/07: Additional costs for traffic surveys to augment traffic counts previously conducted by Council. This enabled improved decision making during the design process for the location and type of traffic calming devices.			596.20				Variation 3 - 31/8/06: Following investigations associated with Variation 1 and subsequent representations from residents in relation to flooding of their properties, a pipe system design was modelled between Richardson Rd and Perouse Ave through the rear of affected properties. This strategy was found to be unviable due to constructability problems and excessive cost.	32,120.00		

<p>Variation 3a - 10/5/07:</p> <p>Modelling of the design and changes to the upstream design to meet 1 in 100 year storm events. The benefit to Council was to reduce overland flows through the rear of properties and erosion to the existing channel. This work was required as an adjustment to the previous design work for Perouse Ave (Stage 2), which was conducted under Variation 3.</p>	5,923.50	<p>Variation 3b - 24/12/07:</p> <p>Modelling of the design and changes to the upstream design to meet 1 in 100 year storm events for the previously completed Perouse Ave (Stage 1) drainage system.</p>	8,536.00
<p>Variation 3c - 18/9/07:</p> <p>Due to the increased drainage scope of works, additional utility service location work was required as part of the design to ensure that utility adjustments were properly identified and costed before the construction phase.</p>	2,398.00	<p>Variation 4 - 27/7/07:</p> <p>Road and drainage design - Richardson Rd, Perouse Ave and Eyre Cr, following the decision to divert stormwater flows down the affected road reserves, rather than through private properties, which was deemed unviable. This modelling and design also ensured that the subsequent pipe system design in Goorama Ave would be correctly sized for the design storm event. This work was also in response to resident representations of flooding of properties.</p>	60,170.00
<p>Variation 4a - 18/9/07:</p> <p>Due to the increased drainage scope of works, additional utility service location work was required to be recorded by detail survey to enable identification of utilities during the design process. This additional work relates to Variation 3c.</p>	4,719.00		

Additional information on variations and delays on this contract:

- Cardno were initially commissioned on 9/5/2005 to undertake detailed design for the upgrading of the road and drainage system in Goorama Ave, between Emu Dr and Highview Ave, San Remo.
- During conceptual design, the consultant was instructed to expand the scope of works to include traffic and drainage analyses for the whole suburb of San Remo to address ongoing traffic and flooding problems in this area.
- Due to the complexity of traffic movements and major drainage system problems in this area, several investigations were undertaken that resulted in extensive delays during the design process. Additionally, new flooding complaints and further investigations revealed the presence of drainage

pipes between Barker Ave and Perouse Ave, which were not recorded in Council's asset system GIS. This prompted further investigation and resulted in significant additional works being added to the contract. Council had limited in-house engineering resources at the time to undertake this design work in the required timeframe.

- A Local Area Traffic Management scheme was also devised for San Remo based on traffic analysis undertaken and this required extensive community consultation. Traffic calming device type and locations had to be resolved before the consultant could continue with detailed design work.
- Significant services locations, design and drafting changes and the consultant's own staff resourcing issues further delayed completion of the final stages of the design work on this project. Drainage and road reconstruction works in Perouse Ave have already largely been constructed as per the design in 2009/2010 and 2010/2011, with the final stage programmed for the 2011/2012 financial year.
- Work on this contract is complete and no further payment claims will be submitted by Cardno.
- All variation payments were approved and paid under delegated authority prior to the introduction of the current Contract Variation and Finalisation Report. No additional funds are now required but approval is sought for these variations to enable completion of all contract administration procedures.

## Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date
135454	26/11/2008	Shirley Consulting Engineers	\$ 237,061.70	\$ 353,061.70	\$ 69,168.10	\$ 115,216.30	\$ 184,384.40	\$ 421,446.10	50/50 DECC & Council (\$565k each) Final funding split to be determined once construction tenders are called	\$ 393,149.78
Individual Variations For Reporting Period										
Description					Value \$	Description				Value \$
Variation 8 Scope change October 2010 This variation required additional investigation and reporting on the feasibility of using sandstone blocks as an alternate lower cost option for the toe drainage structure. The investigation confirmed that sandstone blocks would not be appropriate.					823.80	Variation 9 Scope change October 2010 This variation involved additional engineering design services to undertake conceptual design and prepare design documentation for an alternate Toe Design Structure (TDS) agreed to by Council. This variation modified the previous TDS design with a more cost-effective design to be built by Council day labour. The revised design was expected to be significantly less expensive considering the limited budget available.				74,800.00

<p>Variation 10 Scope change October 2010</p> <p>This variation required additional engineering design services to complete final designs and prepare construction-ready drawings for an alternate Toe Design Structure (TDS) agreed to by Council.</p> <p>This variation followed the initial work in Variation 9 once the new concept design had been accepted.</p>	<p>35,960.00</p>	<p>Variation 11 Scope Change December 2010</p> <p>This variation required additional engineering design services to prepare a material specification to accompany construction drawings for an alternate Toe Design Structure (TDS) agreed to by Council. The work gives details of fill and geotextile materials that will need to be installed when the TDS is built by Council's day labour workforce. The additional specification will allow greater quality control during construction.</p>	<p>3,632.50</p>
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Work under the contract is estimated at 95% complete.

Contract was originally awarded to Shirley Consulting Engineers (SCE) in June 2007. Since that time numerous design options have been examined. These variations include costs associated with a reduced cost option resolved to be pursued by Council at the Ordinary Meeting of 14 April 2010. Design drawings are currently being reviewed and revised for construction and an addendum to the REF for Part 5 is being prepared. Construction using Council's day labour is anticipated between March and June 2011 subject to funding issues being resolved.

**Options Investigation, Design and Tender Documentation for Upgrade of Sewage Pumping Stations C3 and C6, and Construction of Sewage Pumping Station C16, Including Rising Mains and Associated Mechanical and Electrical Equipment**

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date	
155500	11/03/2010	SMEC AUSTRALIA Pty Ltd	\$ 154,738.00	\$ 169,738.00	\$ 0	\$ 8,000.00	\$ 8,000.00	\$ 162,738.00	Sewerage - 4.4.9.	\$ 162,738.00	
<b>Individual Variations For Reporting Period</b>											
		<b>Description</b>	<b>Value</b>								<b>Value</b>
		Variation 1 Scope Change	8,000.00								\$
		Four additional bore holes were required to confirm adequate geotechnical conditions for proposed new sewer pumping station C16.									
		Work under the contract is estimated at 85% complete.									
		With the information currently available the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.									



### Construction of Mannering Park Sewage Treatment Plant Inlet Works.

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date		
159880	22/7/2009	Eire Contractors Pty Ltd	\$ 1,191,000.00	\$ 1,369,000.00	\$ 50,984.40	\$ 2,479.40	\$ 53,463.80	\$ 1,244,463.80	Capital works refurb treatment plants 4.4.9	\$ 1,244,463.40		
Individual Variations For Reporting Period												
Description							Value	Description				Value
Variation 8 Scope Change October 2010 Connection of additional 50 mm inlet main to the new inlet works. This 50 mm inlet main coming from nearby Mine was not identified during the design stage due to the congestion of the inlet mains within a limited area. Cost is reasonable and work was undertaken with minimal disruption to other services. Work under the contract is estimated at 99% complete. Contract is in Defects Liability Period.							2,374.00	Variation 11 Scope Change November 2010 The contractor's overhead component for engaging surveyors to correct some set out errors on the drawings supplied to the contractor was previously overlooked in Variation No 2.				105.40

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

**Excavation and Lining of Cell 4.2B at Buttonderry Waste Management Facility to provide the next landfill cell for waste disposal at this facility.**

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date	
164633	14/10/2009	Robson Civil Projects Pty Ltd	\$ 4,198,468.64	\$ 5,000,000.00	\$ -70,853.01	\$ 18,944.32	\$ -52,008.69	\$ 4,146,459.95	Waste - Tip Operations - Cell Site works - Line Item 4.5.13	\$ 3,984,603.45	
Individual Variations For Reporting Period											
Description					Value \$	Description					Value \$
Variation 9 Latent Condition											
This variation was required to install two groundwater relief sumps and risers under the liner system in the base of the cell and replace 100 sq.m. of groundwater-damaged cell liner in base of main leachate collection sump.											
This work was required to relieve groundwater pressure under cell liner system and to repair damage to cell liner resulting from groundwater inflow in base of cell due to elevated watertable after extended period of wet weather.					18,944.32						
The work ensured integrity of the cell liner system was maintained and prevented further damage from groundwater. It also permitted cell completion promptly following wet weather.											

Work under the contract is now 99% complete.

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

### Toukley Sewage Treatment Plant Inlet Works Augmentation.

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date
154562	14/10/2009	Process Engineering Technologies Pty Ltd	\$ 1,640,427.00	\$ 1,886,427.00	\$ 60,421.00	\$ 56,812.00	\$ 117,233.00	\$ 1,757,660.00	Capital works refurb treatment plants 4.4.9	\$ 1,413,932.76
Individual Variations For Reporting Period										
Description							Value \$	Description	Value \$	
Variation 9 Scope Change  Modifications were required to computer controls to accept new system changes. The full extent of required changes was not identified at the design stage.							1,980.00	Variation 10 Scope Change  This variation is for modification of existing access facilities and old steel works to suit the upgrade involving: - Steel (instead of concrete) access ramp and maintenance platform - Relocate access ladder and extend platform - Reduce handrail barriers - Supply additional Industrial bin  These changes were invited to ensure compliance with OH&S legislation, provide easy access to the various equipment and renew older structures. The need for these improvements became apparent as construction work was undertaken.	15,554.00	

<p>Variation 11 Scope Change</p> <p>This variation was for modifications to the existing concrete hardstand and drainage system for the area where collected screenings, grit and rubbish are deposited into bins. This modification addressed a deficiency in the existing infrastructure and ensures spillage will not escape into the surrounding area.</p>	7,540.00	<p>Variation 12 Scope Change</p> <p>This variation provides better integration and synchronisation of existing and new control systems to control plant operations. The extra work will increase the efficiency of plant operation, and assist the operators by providing greater flexibility in managing plant control.</p>	16,106
<p>Variation 14 Scope Change</p> <p>During construction it was discovered that pipe congestion at the proposed location of a flow meter pit required relocation. The most feasible pit location was in the roadway, and required a heavy duty pit lid at additional cost.</p> <p>Work under the contract is estimated at 90% complete.</p>	15,632.00		

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

### Proposed Upgrading to Floodlighting at Various Ovals in the Southern Region of Wyong Shire

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date	
160330	14/10/2009	Smada Electrical Services Pty Ltd	\$ 1,640,427.00	\$ 1,886,427.00	\$ 19,547.00	\$ 820.00	\$ 20,367.00	166,0794.00	Ovals construct and upgrade	\$ 451,872.00	
Individual Variations For Reporting Period											
Description								Value \$	Description		Value \$
Variation 2 Scope Change This variation is for the upgrade of an existing electrical meter with a new three phase electrical meter at the Ourimbah Soccer Field. This work was initially intended to be undertaken by Council, but due to resourcing restrictions at the time was to direct the Contractor to undertake this work.								820.00			
Work under the contract is estimated at 99% complete. With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.											

### Construction of Hamlyn Terrace Community Centre & Sporting Facility.

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date
172612	14/4/2010	Scape Constructions Pty Ltd	\$ 6,360,811.82	\$ 7,310,811.82	\$ Nil	\$ 47,628.17	\$ 47,628.17	\$ 6,408,439.99	S94	\$ 1,481,734.82
Individual Variations For Reporting Period										
Description		Value \$	Description	Value \$						
Variation 1 Scope Change October 2010	Cost to carry out plan printing of contract documents. This is normally provided by Council, but for expediency due to technical difficulties at the time the contractor was directed to print two sets of drawings for the contract.	1,187.51	Variation 3 Scope Changes October 2010 Cost to construct drains in dam sludge pile to facilitate drainage as directed. The sludge pile was generated as part of the process of removing water hyacinth which was directed to be removed and disposed off site.	1,118.96						
Variation 4 Scope Change October 2010	Removal of additional tree and provide replacements as instructed. This work was not identified within contract scope and became necessary to remove a tree subsequently found to be unsuitable, and provide multiple replacement trees.	4,289.78	Variation 5 Additional Work at Schedule of Rates October 2010 Remove quantity of hard rock in accordance with contract provisions at tendered rates.	16,486.47						
Variation 6 Scope Change November 2010	The Contractor was directed to arrange the early provision of	24,545.45								

<p>power supply to the site at the tendered contract price for this work.</p> <p>This work was always part of the overall project cost, and was undertaken through the current contract at a price considered to be good value for Council.</p>			
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Work under the contract is estimated at 25% complete.

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought at this time. However, the project has experienced extensive periods of wet weather since construction commencement which in combination with the type of on-site soils has led to difficulties for the contractor with earthworks activities. There is potential for increased project costs due to a number of factors. This is being closely monitored and further reports will be provided to Council.



**Development of a Commercial Strategy for Council's Waste Management Site at Buttonderry.**

Work under the contract is estimated at 99% complete.

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

## Management of Toukley Aquatic Centre, Wyong Olympic Pool, The Entrance Ocean Baths and/or Lake Haven Recreation Centre

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) = (a) + contingency Total Approved Budget \$	(c) Value of Variations Previously Reported \$	(d) Value of Variations For Reporting Period \$	(e) = (c) + (d) Total Value of Variations \$	(f) = (a) + (e) Actual Contract Value \$	Source of Funds	Expenditure to Date \$	
158914	27-05-2009	YMCA of Sydney	1,389,000.00	1,530,000.00	36,930.58	1,061.50	37,992.08	1,426,992.08	Management Plan lines 1.7.13 and 1.7.14 Pools & Recreation Centre	711,931.70	
Individual Variations For Reporting Period											
Description		Value \$	Description								Value \$
Variation 5 Scope Change Repairs to several items of gymnasium equipment have been required at the Lake Haven Recreational Centre. Contract conditions require Council to repair all broken gymnasium equipment that is owned by Council through the term of the contract. Maintaining minimum down time for all gymnasium equipment is vital for the Lake Haven recreational centre to remain competitive in this specialist market. The contract is in its second year of operation.		1,061.50									

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

**Estuary Management Plan - Stormwater Treatment Works - Parkside Dr Charmhaven.**

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date
171474	9/12/2009	Environmental Land Contracting Pty Ltd	\$ 475,034.50	\$ 545,034.00	\$ Nil	\$ 8,840.90	\$ 8,840.90	\$ 483,875.40	Estuary Management Plan.	\$ 471,125.40
<b>Individual Variations For Reporting Period</b>										
		<b>Description</b>		<b>Value</b>				<b>Description</b>	<b>Value</b>	
		Variation 1 Scope Change		\$ 8,840.90					\$	
		Additional work not envisaged in original project scope to line channel with rock protection where noxious trees had to be removed. This work will reduce potential for future erosion of channel.								
		Work under the contract is estimated at 95% complete.								
		With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought								

### Hire of Compactor and Traxcavator for the Operation of Buttoderry Waste Management Facility

This is a period contract which expired on 23 January 2010. Work under the contract is 100% complete.

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date	
94307	23/11/2005	Twigg Plant Hire Pty Ltd	\$ 3,596,472.00	\$ 3,596,472.00	Nil	\$ 180,000.00	\$ 180,000.00	\$ 3,776,472.00	General Fund Tip Operations	\$ 3,604,506.93	
Individual Variations For Reporting Period											
Description					Value	Description					Value
Variation 1 Rise and Fall Adjustment					\$						\$
This Contract commenced in January 2006 and included provision for payments to be adjusted quarterly for Rise and Fall (R&F) in accordance with Consumer Price Index (CPI) changes. While this was identified in the Council report, the Resolutions did not separately identify an amount for R&F. Over the duration of the contract R&F adjustments have totalled \$182,958.00. An increase of \$180,000.00 to the approved budget is required and will be met from Buttoderry Operational budget.					180,000.00						

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

**Soldiers Beach SLSC Construction.**

Work under the contract is 13% complete

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date	
184454	22/9/2010	National Buildplan Group Pty Limited	\$ 2,503,904.00	\$ 280,440.00	Nil	\$ 6,398.60	\$ 6,398.60	2,510,302.60	Asset sales & Federal Government Regional & Local Community Infrastructure Programming	\$ 237,246.40	
Individual Variations For Reporting Period											
Description					Value	Description					Value
Variation 1 Scope Change					\$ 6,398.60						\$
The existing surf club had two fire escapes from the top floor. The rear escape staircase prevented construction of the new building and required demolition. To maintain a compliant egress, a temporary staircase was installed to meet Building Code of Australia requirements while the existing building is being used by the Surf Club.											

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

### Installation of Subsoil Drainage Works for Halekulani, Killarney Vale and Kurraba Ovals

Work under the contract is 100% complete.

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date	
171026	27/1/2010	The Green Horticultural Group Pty Ltd	\$ 286,442.60	\$ 315,000.00	Nil	\$ 11,214.15	\$ 11,214.15	\$ 297,656.75	General Fund Ovals Upgrade	\$ 297,656.75	
Individual Variations For Reporting Period											
Description					Value \$	Description					Value \$
Variation 1 Scope Change											
The cost of materials supply increased due to a delayed start to commencement of these works.											
Construction of subsoil drainage works at all three fields was originally programmed to have minimal impact on the 2010 winter sports competition. Extensive delays were experienced due to unfavourable weather conditions in early 2010. The Contractor was directed to postpone the works until Spring 2010 as it had a dual benefit of more favourable turf growing conditions and avoided the risk of disrupting field usage during the Winter soccer season. The price increase at the three sportsfields over this period for materials including uPVC pipes was verified and is considered to be reasonable.					11,214.15						
is therefore sought.											

## Replacement of Pope AC Equipment in Civic Centre

This contract is 90% complete.

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date	
			\$	\$	\$	\$	\$	\$		\$	
179982	14/7/2010	Air Conditioning Industries Pty Ltd	203,792.00	224,171.20	nil	11,870.00	11,870.00	215,662.00	Waste and Sustainability Improvement Program (WaSIP)	210,672.00	
Individual Variations For Reporting Period											
		Description	Value \$				Description	Value \$			
Variation 1 Scope Change		Additional costs to re-position one air-conditioning unit when access for ducting was found to be blocked by a concrete slab that was uncovered when roof sheeting was removed.	1,500.00				Variation 2 Scope Change	10,000.00			
Variation 3 Scope Change		Adjustment to transfer ducting to accommodate new internal renovations being separately undertaken by WSC as part of the Service Delivery changes.	370.00				Electronic control system specified in contract was unexpectedly discontinued by original supplier. A more cost-effective system to the proposed replacement system was sourced by the installation contractor through an alternative supplier. This variation is for the additional cost for the new system over amount allowed in original tender.				

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

## Attachment 2 Significant Contracts Finalised

(Note: the contracts below are period based. The reported contract value is an estimate based on previous year's usage. The actual value of expenditure on each contract may vary over the course of the contract due to changing demands for materials)

SIGNIFICANT CONTRACTS FINALISED – NOVEMBER 2010						
Contract Number	Date of Council Award	Name of Contract	Contract Price Type	Approved Estimated Expenditure Ex. GST over 3 Years \$	Final Contract Value Ex. GST over 3 Years \$	Comments
CPA/128156	28/11/2007	Supply and Delivery of Heavily Bound Pavement Material	Schedule of Rates	1,074,000.00	115,029.00	Heavily Bound Pavement Material is predominantly used for the construction and maintenance of RTA roads. Since 2007, Council has been less successful in securing RTA construction and maintenance work, resulting in less demand for this material.
CPA/128126	28/11/2007	Supply and Delivery of Road Sealing Aggregates	Schedule of Rates	510,984.00	513,857.00	Expenditure was in alignment with contract estimates.
CPA/128146	28/11/2007	Supply and Delivery of Base and Sub Base	Schedule of Rates	3,272,727.00	3,027,047.00	Usage of Base and Sub Base is slightly less than contract estimates. Where possible, Council staff use reclaimed sub base material, resulting in a decreased demand for new materials for road construction and maintenance activities.
CPA/128158	28/11/2007	Supply and Delivery of Ready Mix Concrete	Schedule of Rates	1,854,643.00	1,728,576.00	Usage of Ready Mix Concrete was slightly less than pre contract estimates.
CPA/128145	28/11/2007	Supply and Delivery of Type S Filter Sand	Schedule of Rates	719,976.00	638,556.00	Demand for Type S Filter Sand has decreased slightly as more environmentally acceptable alternatives such as Bottom Ash are being used as a substitute for sand.



SIGNIFICANT CONTRACTS FINALISED – NOVEMBER 2010						
Contract Number	Date of Council Award	Name of Contract	Contract Price Type	Approved Estimated Expenditure Ex. GST over 3 Years \$	Final Contract Value Ex. GST over 3 Years \$	Comments
CPA/128127	28/11/2007	Supply and Delivery of Cold Mix	Schedule of Rates	144,240.00	155,922.00	Expenditure was in alignment with contract estimates.

## **5.2 Proposal to Seal a Length of Palmdale Road near the Intersection with Toobys Creek Road**

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TRIM REFERENCE: C2009/05482 - D02490489

AUTHOR: Robert Fulcher; Manager Asset Management

### **SUMMARY**

After a long period of correspondence with council, the owners of two parcels of land on Palmdale Road have agreed to contribute to the sealing of a length of the road along their frontages, near the intersection with Toobys Creek Road, in order to solve a dust problem. This report recommends that the proposal be approved.

### **RECOMMENDATION**

- 1 That Council approve a proposal for it to seal a length of about 250m of unsealed road on Palmdale Road, near its intersection with Toobys Creek Road, along the frontage of two properties, owned by Mr and Mrs B Davies and Mr and Mrs J Swain , subject to the landowners contributing an amount of \$2,500 each toward the work, with the amount to be paid prior to the work proceeding**
- 2 That Council vote total funds of \$10,000 to allow the sealing work to proceed in the 2010/11 budget, with \$5,000 to come from the landowner contributions and \$5,000 to come from a transfer of funds from the road maintenance budget to the roads capital budget.**

### **BACKGROUND**

Palmdale Road is sealed west from its intersection with the Pacific Highway for a distance of about 1.8km. From there the road is unsealed for a further 1.6km where it leads to a State Forest. For some time, residents at the western end of the sealed section, at its intersection with Toobys Creek Road have complained about dust problems generated from the unsealed surface.

Past actions to help reduce the dust problem have included sandstone and gravel resheeting. These actions were never designed to totally eliminate dust blowing from an unsealed surface.

In 2010, one of the residents complained to Council's Internal Ombudsman who has been in contact with The Department of Environment, Climate Change and Water (DECCW) about health concerns raised by the complainant. The Internal Ombudsman has also carried out site inspections to monitor the dust and road surface. The Internal Ombudsman and the Manager of Roads and Stormwater have also discussed possible improved signage and other options.

## 5.2 Proposal to Seal a Length of Palmdale Road near the Intersection with Toobys Creek Road (contd)

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The residents have continued to raise concerns about the dust. The situation at these properties is unusual in a rural setting, where the two houses are located quite close to the road pavement. The residents are on tank water and are concerned about dust in both atmospheric form and dust entering their water tanks.

Council's limited resources mean that it is not able to seal all of the road surfaces in the shire. The selection of roads for sealing is based on a number of criteria, including traffic volume and speed, traffic accident history and road alignment. Its current priorities have been directed toward more highly trafficked through roads, such as The Ridgeway and Brush Road. Palmdale Road, with a traffic volume of about 150 vehicles per day does not constitute a current priority for road sealing at full cost to council.

Many traffic movements on Palmdale Road occur from non-resident activity as council agreed with the National Parks and Wildlife Service to open the road to access the State Forest and National Park. Since that time, the residents, who claim they were not consulted in that decision, have increasingly complained about dust from recreational vehicle and motor bike activity.

### THE PROPOSAL

By letter dated 12 November 2010, the mayor advised the residents, inter alia, as follows:

*"As you know, Council has recently carried out gravel re-sheeting work on this section of road. That unsealed surface may still at times be dusty, but it has provided a stable structural base over the natural ground.*

*As a result of that re-sheeting work, it is now possible for Council to seal an area of the road from the existing bridge, past the frontages of the two houses on the corners of Toobys Creek Road, for \$10,000.*

*Since the two properties would benefit substantially from that sealing work and the resolution of the current dust issues, I am proposing to recommend to Council that it proceed with that sealing work, if both of the property owners contribute half of the cost of the work (i.e. total of \$5,000 or \$2,500 each).*

*I am asking both landowners in separate letters, if they would be prepared to contribute \$2,500 each toward the cost of the sealing works.*

*If you confirm in writing that you are prepared to contribute that amount to the sealing, I will arrange to place the matter before Council with my recommendation to go ahead."*

The substantial investment in road forming and gravel resheeting referred to in the above letter has already been absorbed by the maintenance budget. The work has improved the road structure to the stage where it can now be sealed for a relatively low additional cost.

By letter of 14 December 2010 in response to questions raised by the residents, council further advised the residents, inter alia, as follows:

*"Depending on when you respond to Council's proposal, the work could be carried out in March 2011.*

*There are no strings attached to your contribution. You will not be expected to contribute towards any future maintenance costs.*

*Council's preference is for both landowners to contribute to the work. The whole of the proposed length of sealing will need to be completed to resolve the dust issues at your property. Since the Mayor's proposal is that the landowners will need to contribute a total of \$5,000.00 towards the sealing, if only one landowner agreed to contribute, that land owner would need to contribute the whole of the \$5,000.00 (rather than \$2,500.00 each from two landowners) for the work to proceed."*

By email of 20 December 2010, the landowners replied as follows:

*"Thank you for your letter dated 14th December 2010 which arrived today. The answers to our queries were just what we wanted to hear so we are keen to proceed. We agree to the payment of \$2,500.*

*Our neighbours had very similar queries so they were waiting to see what response we received. We showed them your letter today and they indicated that they too are keen to proceed. They have your contact details so I expect you will hear from them soon. In the interests of expediting the matter we would be prepared to guarantee the full \$5000 so you could start planning even before receiving their response. We would not want to miss the opportunity for the work to be done in March 2011."*

The proposal is that council accept the funding contribution from the landowners as being sufficient to increase the priority for the sealing work and, subject to the owners paying in advance, proceed with the work during March 2011.

The proposal will improve the level of service from this section of road. Because of the low traffic volumes there will be no increase in the cost of maintaining the sealed road over that involved in the current unsealed pavement. The small amount of maintenance funds allocated to this capital work will not significantly affect the level of service of road maintenance.

## **OPTIONS**

Council could choose not to carry out the sealing work and leave the road unsealed. The dust problems will continue and the residents' concern over dust issues will remain.

The other option would be to fund the work fully by Council. That option would not be in accordance with council's selection criteria for road sealing and would have an impact on the road maintenance budget.

The preferred option allows the residents to contribute fairly to the improvement in atmospheric conditions from which they will be the main beneficiaries.

## STRATEGIC LINKS

### Annual Plan

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
Infrastructure	1	4.1.3

The proposal will ensure the safe flow of traffic and support environmental aspirations by reducing dust nuisance.

### Link to Shire Strategic Vision

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i>
<b>Travel</b> - There will be ease of travel within the Shire, and to other regional centres and cities. Travel will be available at all hours and will be safe, clean and affordable.	Travel will be easier on a sealed pavement than an unsealed road, particularly on the curved alignment

### Financial Implications

The proposal requires a one off reallocation of an amount of \$5000 from the current road maintenance budget to the roads construction budget (from line 4.1.5 to 4.1.3 in the annual plan). The proposal will not increase the future operation and maintenance costs of the section of road above the current costs associated with trying to control the dust nuisance.

### Principles of Sustainability

The proposal is aimed at improving safety and wellbeing, it has elements of social justice and the resulting reduced dust and road pavement erosion will benefit the quality of the local waterways.

## CONSULTATION

The residents involved have agreed to the proposal.

## GOVERNANCE

Not applicable.

**5.2 Proposal to Seal a Length of Palmdale Road near the Intersection with Toobys Creek Road (contd)**

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**CORPORATE RISKS**

There are no significant risks associated with the proposal. There is a minor risk that other residents may want to be involved in such offers, with the potential to distort councils' works program. However, this proposal does involve the sealing of a currently unsealed surface located at the end of a straighter section of sealed road. The resulting improved safety helps justify the inclusion in the works program.

**CONCLUSION**

The recommendation is that council approve the proposal to seal the section of road, subject to the residents' contribution being received prior to proceeding.

**ATTACHMENTS**

*Nil.*

### **5.3 Proposed Councillors' Community Improvement Grants**

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TRIM REFERENCE: C2011/01723 - D02491556  
AUTHOR: Evelyn Duncan; TL Governance and Councillor Services  
MANAGER: Lesley Crawley, Manager Corporate Governance

#### **SUMMARY**

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

#### **RECOMMENDATION**

***That Council allocate an amount of \$10,802.00 from the 2010-11 Councillors' Community Improvement Grants as outlined in the report.***

#### **BACKGROUND**

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

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

#### **THE PROPOSAL**

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

#### **OPTIONS**

- 1 Approval of applications as submitted will provide a community benefit residents of the Shire.
- 2 Non approval could result in assistance not being provided to the community.

**STRATEGIC LINKS**

**Annual Plan**

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Community	Enhance the quality of life of the Shire's residents	1.1.11 – Community Financial Support

**Contribution of Proposal to the Principal Activity**

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

**Link to Shire Strategic Vision**

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i>
<b>Communities</b> - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.
<b>Facilities and Services</b> - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.

**Financial Implications**

Expenditure is approved until the end of the 2010-11 financial year. Unspent approvals lapse 30 June 2011.

**Principles of Sustainability**

The CCIG program is aligned with the principles of sustainability in that it would:

- Improve and maintain safety, wellbeing and sense of community
- Use locally available resources to increase our self-reliance
- Support local and regional economic prosperity
- Build and strengthen partnerships and alliances

**CONSULTATION**

Applications that met the criteria were distributed to Councillors for their consideration.



**GOVERNANCE**

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

**CORPORATE RISKS**

Nil impact.

**CONCLUSION**

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

**Councillors' Community Improvement Grants 2010-11**

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/07/2010 - 30/06/2011		15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	150,000
Expenditure up to and including Ordinary Council Meeting of 08/12/2010		4,900	3,850	5,050	7,849	2,950	750	1,650	5,424	2,450	4,600	39,473
Available allocation as at 08/12/2010		10,100	11,150	9,950	7,151	12,050	14,250	13,350	9,576	12,550	10,400	110,527
Proposed Allocations for 9 February 2011												
1st Mannering Park Sea Scouts (\$2,000) (\$400 already allocated)	Assist with exterior repainting of scout hall								400			400
Bateau Bay Public School P & C Association Before & After School Care (\$1,000)	Provision of educational games, toys, books and DVDs				200	250						450
Central Coast Community Womens Health Centre (\$51,98)	Purchase of activity mats for Play Café at The Entrance Community Centre				26	26						52
Central Coast Multiple Sclerosis and Handicapped Group Inc (\$1,250)	Assist with cost of Christmas lunch			500	200					500	50	1,250
Chain Valley Bay Progress Association - Crafty Links (\$1,000) (\$100 already allocated)	Assist to provide provisions for craft group in the north of the Shire								200			200
Junior Trials Minikhana Club (\$2,000)	To improve grounds for kids use						1,000					1,000
Lakeland Fitness Park and Exercise Group (\$300)	Provision of water weights, DVDs, cd player etc				100	200						300
Mannering Park Community Centre 355 Committee (\$1,000) (urgent approval provided by General Manager)	To cover security and set up costs at art exhibition and sale of works 21 to 23 January 2011					200			300		500	1,000
Polio Survivors Australia Inc (\$2,000)	To assist with purchase of laptop and laser printer	200	200								500	900

## 5.3

## Proposed Councillors' Community Improvement Grants (contd)

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
St Barnabas Church 355 Committee (\$5,000)	Assist with building a storage shed at the back of the Church	100	1,000			500				500		2,100
Toukley Gorokan Soccer Club Inc (\$1,000)	Assist purchase paint and materials to paint interior and exterior of amenities building at Harry Moore Oval					250					200	450
Tuggerah Lakes Memorial Pistol Club Inc (\$3,260)	To fund general maintenance and improvements to club facilities			500						500		1,000
Vision Impaired Support Group Wyong Shire (\$200)	To provide provisions for Christmas Party				100						100	200
Wyong Community Bank (\$500)	To assist in provision of free Carols by Candlelight		200		200						100	500
Youth Connections (\$2,000)	Assist with funding for Freedom Ride 2011				250	250				500		1,000
<b>Total Proposed Allocations for 09/02/2011</b>		<b>300</b>	<b>1,400</b>	<b>1,000</b>	<b>1,076</b>	<b>1,676</b>	<b>1,000</b>	<b>0</b>	<b>900</b>	<b>2,000</b>	<b>1,450</b>	<b>10,802</b>
<b>Total Accumulated Allocations as at 09/02/2011</b>		<b>5,200</b>	<b>5,250</b>	<b>6,050</b>	<b>8,925</b>	<b>4,626</b>	<b>1,750</b>	<b>1,650</b>	<b>6,324</b>	<b>4,450</b>	<b>6,050</b>	<b>50,275</b>
<b>Balance Uncommitted as at 09/02/2011</b>		<b>9,800</b>	<b>9,750</b>	<b>8,950</b>	<b>6,075</b>	<b>10,374</b>	<b>13,250</b>	<b>13,350</b>	<b>8,676</b>	<b>10,550</b>	<b>8,950</b>	<b>99,725</b>

## ATTACHMENTS

*Nil.*

## 6.1 Draft Minutes - Wyong Shire Governance Committee Meeting of 24 November 2010

TRIM REFERENCE: F2004/07245 - D02457122  
AUTHOR: Monica Redmond; Administration Assistant  
MANAGER: Lesley Crawley; Manager Corporate Governance

### SUMMARY

A meeting of the Wyong Shire Governance Committee was held on 24 November 2010, draft minutes are now submitted to Council for consideration.

### RECOMMENDATION

- 1 ***That Council receive the draft minutes of the Wyong Shire Governance Committee Meeting held on 24 November 2010 and adopt the recommendations contained therein.***
- 2 ***That Council adopt the following schedule of dates and standard agenda items for 2011.***
- 3 ***That Council note that the proposed agenda items and dates have been agreed by the external members of the Governance Committee.***

<b><i>Governance Committee Date</i></b>	<b><i>Standard Agenda Items in addition to procedural requirements</i></b>	<b><i>Ordinary Meeting Date</i></b>
<b><i>Wed 16 March</i></b>	<ul style="list-style-type: none"> <li>• <b><i>Quarterly Budget Review &amp; Annual Plan</i></b></li> <li>• <b><i>Strategic Finance Committee (minutes for information)</i></b></li> <li>• <b><i>Internal Audit Report</i></b></li> <li>• <b><i>Corporate Risk Register</i></b></li> <li>• <b><i>Major Significant/Project Update</i></b></li> <li>• <b><i>ERM project update</i></b></li> <li>• <b><i>Ombudsman Report</i></b></li> <li>• <b><i>Service Delivery Review</i></b></li> <li>• <b><i>Other Matters</i></b></li> </ul>	<b><i>27 April</i></b>
<b><i>Wed 8 June</i></b>	<ul style="list-style-type: none"> <li>• <b><i>Quarterly Budget Review &amp; Annual Plan</i></b></li> <li>• <b><i>Strategic Finance Committee (minutes for information)</i></b></li> <li>• <b><i>Internal Audit Report</i></b></li> <li>• <b><i>Corporate Risk Register</i></b></li> <li>• <b><i>Major Significant/Project Update</i></b></li> <li>• <b><i>ERM project update</i></b></li> <li>• <b><i>Ombudsman Report</i></b></li> <li>• <b><i>Service Delivery Review</i></b></li> <li>• <b><i>Other Matters</i></b></li> </ul>	<b><i>27 July</i></b>
<b><i>Wed 21 September</i></b>	<ul style="list-style-type: none"> <li>• <b><i>Quarterly Budget Review &amp; Annual Plan</i></b></li> <li>• <b><i>Strategic Finance Committee (minutes for information)</i></b></li> </ul>	<b><i>26 October</i></b>

	<ul style="list-style-type: none"> <li>• <i>Internal Audit Report</i></li> <li>• <i>Corporate Risk Register</i></li> <li>• <i>Major Significant/Project Update</i></li> <li>• <i>ERM project update</i></li> <li>• <i>Ombudsman Report</i></li> <li>• <i>Service Delivery Review</i></li> <li>• <i>Other Matters</i></li> </ul>	
<i>Extraordinary Meeting subject to Audit timetable (5 October - tentative)</i>	<ul style="list-style-type: none"> <li>• <i>Annual Financial Statements</i></li> </ul>	<i>Next available meeting</i>
<i>Wed 7 December</i>	<ul style="list-style-type: none"> <li>• <i>Quarterly Budget Review &amp; Annual Plan</i></li> <li>• <i>Strategic Finance Committee (minutes)</i></li> <li>• <i>Internal Audit Report</i></li> <li>• <i>Corporate Risk Register</i></li> <li>• <i>Major Significant/Project Update</i></li> <li>• <i>ERM project update</i></li> <li>• <i>Ombudsman Report</i></li> <li>• <i>Service Delivery Review</i></li> <li>• <i>Other Matters</i></li> </ul>	<i>8 Feb 2012</i>

A meeting of the Wyong Shire Governance Committee was held on 24 November 2010. Due to lack of a quorum, some agenda items were not considered at this meeting, these items will be listed on the 16 March 2011 Governance Committee agenda for consideration.

However, it is appropriate that Council now consider the proposed resolution of Item 3.3 Review of Dates and Revision of Agenda Items in order to enable confirmation of the Schedule of Governance Committee Meetings for 2011.

The dates and agenda items put forward are agreed by the all the external members of the Governance Committee.

The draft minutes of that meeting are set out below.

**WYONG SHIRE COUNCIL**

**MINUTES OF THE  
WYONG SHIRE GOVERNANCE COMMITTEE OF COUNCIL**

HELD IN THE COUNCIL CHAMBER  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON 24 November 2010  
COMMENCING AT 9:30 AM

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**PRESENT**

Mr David Holmes (Chairperson), Councillor D Eaton (arrived at 9.35am and departed at 11.30am), Mr Bruce Turner and Mr Jason Masters (independent members).

**IN ATTENDANCE**

General Manager, Internal Auditor, Senior Internal Auditor, Internal Ombudsman, General Counsel, External Auditor and one administration staff member.

The Chairperson, Mr David Holmes, declared the meeting open at 9.30 am

**APOLOGIES**

Apologies were received on behalf of Councillors Symington and Wynn.

**Secretarial Note**

The meeting had commenced at 9.30 am however it was realised upon the arrival of Mayor Eaton at 9.35 am that a quorum had not been present at 9.30 am to hear Disclosures of Interest and acceptance of previous minutes. Accordingly these two items do not form part of the meeting record and will be recovered at the next meeting.

The meeting began formally at 9.35 am. The pre-meeting discussion was noted for later confirmation.

**QUORUM**

No quorum existed until Mayor Eaton's arrival at 9.35 am at which time this meeting began.

**1.1 Disclosure of Interest**

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**COMMITTEE RECOMMENDATION**

***That the Committee record the Disclosures of Interest made by the external Members relating to matters under consideration at this meeting.***

The external members confirmed the following disclosures:

**6.1 Draft Minutes - Wyong Shire Governance Committee Meeting of 24 November 2010 (contd)**

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Mr Bruce Turner disclosed a non pecuniary insignificant conflict of interest regarding matters under consideration at this meeting as a result of him being the Chair of the Audit and Risks Committee for the Department of Premier and Cabinet, which has a Division of Local Government as a subset, and remained in the meeting.

Mr Jason Masters disclosed a non pecuniary insignificant conflict of interest regarding matters under consideration at this meeting as a result of him being the Chair for the Audit and Risk Committees for both the NSW Ombudsman and the Independent Commission Against Corruption and remained in the meeting.

David Holmes declared a non-pecuniary insignificant conflict of interest for the reason that he has minor shares with Capgemini and remained in the meeting.

**1.2 Minutes of the Extraordinary Wyong Shire Governance Committee - 6 October 2010**

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**MINUTES OF PREVIOUS MEETING**

The Chairman drew the Committee's attention to the revised minutes which had been circulated on 11 November 2010 which included his amendments.

Ms Baker noted some confusion around the titles of auditing staff, three titles are being used, Internal Audit Manager, Senior Internal Auditor and Internal Auditor.

Mr Whittaker advised that the correct titles are as follows:

Mr Jeff Simpson, Internal Auditor  
Ms Tina Baker, Senior Internal Auditor

The minutes of the previous meeting were acknowledged prior to a quorum being present. Formal confirmation will be required at the 16 March 2011 meeting.

**1.3 Wyong Shire Governance Committee Action Plan - 6 October 2010**

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Councillor Eaton joined the meeting at 9.35 am during consideration of this item.

**COMMITTEE RECOMMENDATION**

***That the Committee confirm the action plan of the previous Governance Committee Meeting held on 6 October 2010.***

2.1 Revised procedures for approval of Minutes of Governance Committee Meetings

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**COMMITTEE RECOMMENDATION**

***That the Governance Committee endorse the procedure for approval and adoption of the minutes of its meetings.***

The Chairman summarised the new process as follows:

- Completed minutes circulated to all members in draft format for comment.
- Chairman confirms Draft Minutes
- Draft minutes submitted to Council meeting for information
- Draft minutes, as noted by Council, submitted to next Governance Committee for adoption.
- Minutes as adopted by Governance Committee submitted to Council for adoption (will be included on same report as Draft Minutes of the following Governance meeting).

2.2 Internal Audit Report

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Mr Brian Glendenning, General Counsel, joined the meeting at 10.00 am, during consideration of this item.

**MEETING TERMINATED**

Mayor Eaton left the meeting at 11.30 am, and so removed the necessary quorum.

The meeting officially terminated at that time.

**Secretarial Note:**

Discussion on various matters ensued and it was informally suggested that the output of the discussion could be reported and adopted at the next meeting of the Committee should they so determine.

The following Items 1.1 – 1.2, 2.1 – 2.6 and 3.1 – 3.3 to be considered *englobo* at the next Governance Committee meeting on 16 March 2011.

- 1.1 Disclosure of Interest
- 1.2 Minutes of the Extraordinary Wyong Shire Governance Committee - 6 October 2010
- 2.2 Internal Audit Report
- 2.3 2010 -11 Annual Plan - September 2010 Quarter Review
- 2.4 Office of the Internal Ombudsman
- 2.5 Budget Process 2010 - 11
- 2.6 Chairman's Minute - Other Matters for Discussion

**6.1 Draft Minutes - Wyong Shire Governance Committee Meeting of 24  
November 2010 (contd)**

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- 3.1 Progress of the Service Delivery Review Recommendations
- 3.2 Department of Local Government - Section 430 Investigation
- 3.3 Review of Dates and Revision of Agenda Items

**ATTACHMENTS**

Nil



## **7.1 Information Reports**

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TRIM REFERENCE: F2011/00027 - D02457114  
AUTHOR: Susanna Gardiner; Administration Assistant  
MANAGER: Lesley Crawley; Manager Corporate Governance

### **SUMMARY**

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

### **RECOMMENDATION**

*That Council deal with the following Information Reports by the Exception Method.*

### **ATTACHMENTS**

*Nil.*

## AMENDED REPORT

9 February 2011  
To the Ordinary Meeting

Director's Report  
Infrastructure Management  
Department

### 7.2 Mardi to Mangrove Link Project Status

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TRIM REFERENCE: F2007/01120 - D02449545  
AUTHOR: Daniel Kemp; Engineer Technical Services  
MANAGER: Greg McDonald; Director Infrastructure Management

#### SUMMARY

Report on status of Mardi to Mangrove Link Project.

#### RECOMMENDATION

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

#### PROJECT SCOPE

- Wyong River off-take structure and pumping station
- Wyong River to Mardi-Dam 2.1 kilometre pipeline
- Inlet works at Mardi Dam
- Mardi-Mangrove transfer pumping station
- Mardi Dam to Mangrove Creek Dam 19 kilometre pipeline
- Lower Wyong River Weir, Fishway and Gauging

#### CURRENT STATUS

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**Expenditure to date** \$83.0m

**Project Estimate** \$120.6m

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#### Construction Status

	Scheduled Start	Scheduled Completion	% Work Complete
<b>Milestone 1:</b>		17 May 2011	
Pre-construction – Management Plans & Approvals	4 January 2010		100%
Work Package 1 – Wyong River Off-take	7 April 2010		90%
Work Package 2 – Wyong River Pump Station	19 February 2010		80%
Work Package 3 – Wyong Mardi Rising Main 3	16 February 2010		95%
Work Package 4 – Wyong Mardi Inlet	6 May 2010		98%
Work Package 7 – Mardi Mangrove Transfer Main	1 March 2010		67%
Work Package 18 – Wyong Weir, Fishway & Gauging	5 August 2010		95%

<b>Milestone 2:</b>		14 March 2011	
Work Package 6 – Mardi Mangrove Transfer Pump Station	21 June 2010		90%
<b>Milestone 3:</b>		6 May 2011	
Commissioning	1 August 2011		5%

### Key Dates

	Scheduled Completion	Actual Completion	Complete
Review of Environmental Factors (REF) submitted	30 June 2009	30 June 2009	<input checked="" type="checkbox"/>
Call for Expressions of Interest (EOI)	9 July 2009	9 July 2009	<input checked="" type="checkbox"/>
EOI closes	30 July 2009	30 July 2009	<input checked="" type="checkbox"/>
Determination Approval	14 October 2009	23 September 2009	<input checked="" type="checkbox"/>
Issue Request for Tenders (RFT)	16 October 2009	16 October 2009	<input checked="" type="checkbox"/>
Tenders close	12 November 2009	12 November 2009	<input checked="" type="checkbox"/>
Council consider Award of Construction Contract	9 December 2009	9 December 2009	<input checked="" type="checkbox"/>
Expiry of PAN 90 day notification period	31 December 2009	31 December 2009	<input checked="" type="checkbox"/>
Minister/Governor determination of compulsory acquisition applications	27 January 2010	27 January 2010	<input checked="" type="checkbox"/>
Pipeline Construction	27 January 2011		<input type="checkbox"/>
Transfer Pump Station Construction	31 January 2011		<input type="checkbox"/>
Commissioning	6 May 2011		<input type="checkbox"/>
Project Completion	June 2011		<input type="checkbox"/>

### Land Matters

- Pipe laying has been completed on 38/56 properties.
- 12/56 properties have been restored.
- Restoration of properties and completion of outstanding work is slower than anticipated and is limiting the progress of landholder compensation negotiations and releases.
- Key property and landholder issues at present include:
  - Traffic delays
  - Condition of Yarramalong Road
  - Progress of works and restoration
  - Quality of restoration
  - Tree protection
  - Additional compensation requirements for stockfeed and agistment
  - Corridor maintenance particularly weed management and re-seeding requirements.

- Negotiations for additional compensation for pipe bridges and section valves are almost complete with agreements having been reached with 6/7 landholders.
- Construction licences have been extended for a further three months for most properties, as works on each property have taken longer than anticipated.

## Stakeholder Liaison

### Media

- A media release on the fire hydrant legacy benefit was distributed in December. This received exposure in the Central Coast Express Advocate and on the local radio stations.
- A media release on Horizontal Directional Drilling under Wyong River was distributed in January. This received coverage in the Central Coast Express Advocate and on the local radio stations, including an in-depth interview with the Mayor on ABC Central Coast.
- Project information was provided for the Shirewide column in the Central Coast Express Advocate. The December feature stories were on the Half Way Celebrations and the fire hydrant legacy benefit.
- A December project update was provided to industry publication Pipeline Plant & Offshore Projects. More detailed information was also provided for a feature story on pipelines under construction in Australia for the January edition.
- Three traffic updates were issued to the media during December and January. One special traffic update was distributed in December regarding wide load restrictions along Yarramalong Road. The updates are provided to residents, emergency services, local schools, bus companies and relevant staff.

### Advertising

- Fortnightly advertisements began in January Central Coast Express Advocate to advise of the traffic delays and wide load restrictions on Yarramalong Road. These are scheduled until March 2011.
- Radio advertising is ongoing on 2GO. These advertisements focus on the works and traffic updates in Yarramalong Valley and are updated each month.

### Resident Communication

- Six traffic emails were sent to more than 30 households who have sought direct updates. Residents are encouraged in all articles and letters to join this list to receive direct updates from the team.
- A Christmas letter was sent to all Yarramalong residents to wish them a merry Christmas and remind them to stay out of the construction corridor during the break.
- Direct liaison with affected landholders is ongoing via the project's Property Team.
- There have been no OH&S incidents during the last reporting period.

- Archaeological investigations have been completed for the corduroy road discovered in the construction area of Kidmans Lane on 20 October 2010. The archaeologist's report has not yet been submitted to Council.

### **Major Achievements / Issues**

- The base slab and wing walls for the off take structure (Work Package 1) have been poured.
- Internal pipe work has been installed in the valve pit and wet well of the Wyong River Pump Station (Work Package 2) and scaffolding for formwork commenced for the roof slab of the wet well. Switch room gear is being installed. The High Voltage Connector plinth has been constructed.
- Cutting in from the Wyong River Pump Station (Work Package 2) to the pipelines leading to Mardi Dam (Work Package 3 and existing mains) has commenced.
- Installation of electrical control gear has been completed at the Wyong Mardi Inlet (Work Package 4). Roadworks and restoration have commenced. Cutting in from the pipelines leading to Mardi Dam (Work Package 3, Work Package 7 and existing mains) and the Wyong Mardi Inlet (Work Package 4) has been completed.
- Motors and pumps have been installed at the Mardi-Mangrove Transfer Pump Station (Work Package 6). Installation of the suction main and inlet manifold is well advanced. Electrical cabling and switchgear units are currently being installed.
- Approximately 13 km (of 19 km) of pipeline for the Mardi-Mangrove Transfer Main (Work Package 7) has been laid. Piling works for all pipe bridges except at Bunning Creek Rd are complete (4 of 5).
- HDD boring commenced on 18 January 2011 – reaming of the borehole is presently up to 750 mm diameter (will go to 1500 mm). HDPE pipe has started arriving on-site.
- Excavation works have commenced for the surge tank structure at Ch 16100.
- The Lower Wyong River Weir, Fishway and Gauging (Work Package 18) are 95% complete. The Designer of the fishways, Martin Mallen-Cooper, inspected the Works on 27 January 2011.

### **ATTACHMENTS**

*Nil.*

### **7.3 Central Coast Business Enterprise Centre**

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TRIM REFERENCE: F2004/07559 - D02418196

AUTHORS: Melissa McKee; Corporate Planning Executive & Garry McLachlan; Manager Business Development

MANAGER: Bronwyn Rumbel; Manager Economy Property Development

#### **SUMMARY**

Report on the current operations of the Central Coast Business Enterprise Centre.

#### **RECOMMENDATION**

- 1 That Council receive the report on the Central Coast Business Enterprise Centre.**
- 2 That Council review as part of its 2011-12 Annual Plan development its future funding commitment to the Central Coast Business Enterprise Centre.**

#### **BACKGROUND**

Council auspiced the Central Coast Small Business Mentor Services Limited (CCBMS) in the late 1990's. Wyong Shire and Gosford City Council were the major funders of the organisation at that time. The original purpose of CCBMS was to provide first line mentoring assistance to businesses in distress. Since its inception CCBMS had grown and become an integral part of the success of small business on the Central Coast.

The Business Mentors are all volunteers, who are qualified, experienced and enthusiastic professionals who act as 'sounding boards' to Central Coast business owners who are looking to expand their business or who are experiencing difficulties.

In late 2008, CCBMS became known as the Central Coast Business Enterprise Centre (CCBEC). Today CCBEC is a non-profit, non-political organisation providing a range of free and fee based services to the business community to promote business development on the Central Coast.

There are over 100 Business Enterprise Centres (BECs) across Australia. BECs are designed to facilitate the creation, retention and development of sustainable business enterprises and foster local economic development. BECs through their successful partnerships with governments (federal, state and local), private enterprise and local communities across Australia provide practical confidential business facilitation services.

A recent quantitative evaluation of CCBEC by the NSW Department of Industry and Investment showed that CCBEC exceeded the State average result in every category for delivery of Business Advisory Services. Importantly CCBEC clients were found to be more likely to have acted on advice provided during their meetings, as well as experienced a positive impact when advice was acted upon.

In recent years the CCBEC has expanded and is currently funded by all levels of government, as detailed below.

### Existing Funding Arrangements

#### ***Wyong and Gosford Councils***

The CCBEC has been supported by both Councils since its inception in 1998. In 2010-11 Wyong Council will provide support of \$111,000, made up of a cash contribution of \$94,000 and the use of a motor vehicle, at an annual cost of \$17,000. Council's funding is reviewed on an annual basis as part of the Annual Plan preparation process. Gosford Council makes an annual contribution of \$30,000. This core funding and support of both Councils enables CCBEC to leverage project and grant funds from other levels of government.

#### ***NSW Department of Industry and Investment (I & I)***

The CCBEC has been under contract to I & I since 2000 to provide Business Advisory Services. Under the I & I contract CCBEC gives information and assistance to clients intending to start a business. The information includes assistance with start-up business facilitation, business planning, information on Government regulation, business workshops etc. The current contract is to June 2012 and provides annual funding of approximately \$170,000.

CCBEC's qualified and experienced facilitators are all former self-employed business people with a wealth of business knowledge who assist clients to research and consider all aspects of their intended business before they commit to business purchases, lease agreements, loans and the like.

Leveraged against Council funds, during 2009-10 the CCBEC secured an additional \$30,000 in State Government funding, in partnership with The Entrance Town Centre to educate retailers and with Central Coast Tourism to provide product packaging seminars.

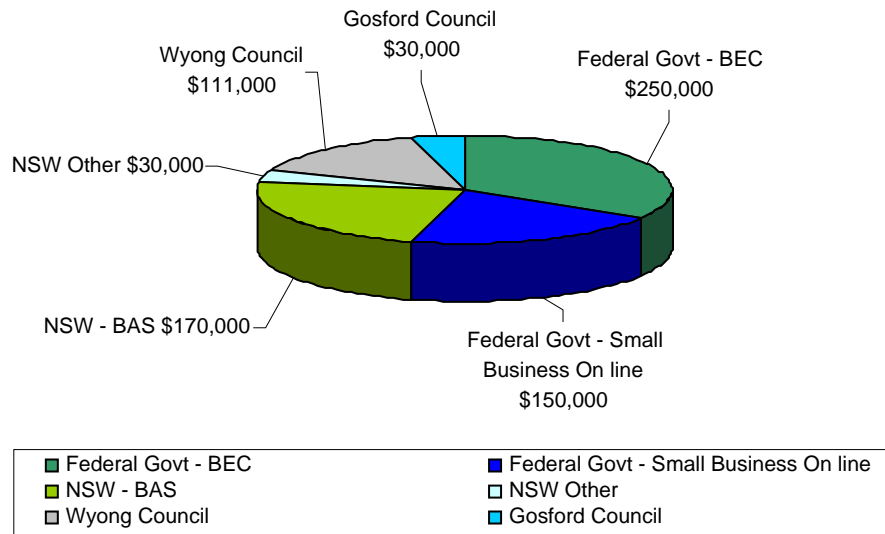
#### ***Federal Department of Innovation, Industry, Science and Research (AusIndustry)***

In 2008 the CCBEC secured a four year funding agreement with the Australian Government of approximately \$250,000 per annum. The services offered as a result of the AusIndustry funding include: mentoring for new business, legal and accounting services, leasing guidance, assistance with marketing plans, information on loans and banking products, Women in Business and national referrals.

#### ***Federal Government Small Business Online Program***

CCBEC's most recent successful grant application will enable \$150,000 worth of training on marketing and networking online to be provided in 2010-11 to small business owners. This program will allow CCBEC to deliver 16 workshops, 225 professional advice sessions and over 100 online sessions to a minimum number of 717 participants representing 290 businesses. The objective of the program is to provide small business with the knowledge and skills to better market their businesses through the use of online channels such as their website, bulk email and/or social media (e.g. Facebook, Twitter).

The following graph shows the annual funding mix by provider:



Typically State and Federal grant funds do not include funding for overheads (i.e. salaries, rent etc). Wyong and Gosford Councils' funding helps to cover the base overhead costs of running the CCBEC. As a result of core funding provided by the Councils CCBEC is able to leverage five times the service to businesses on the Central Coast.

### Services Provided to Central Coast Small Business

During 2009-10 the CCBEC provided the following services to small businesses on the Central Coast:

- 27 workshops to 336 participants
- 900 business guidance sessions totalling 1,045 hours
- 37 businesses mentored totalling 293 hours
- 243 clients referred to CCBEC professional network totalling 441 hours
- 509 unique businesses assisted

CCBEC clients represent the future of small business on the Central Coast. 85% of businesses working with CCBEC are less than ten years old and businesses working with CCBEC have grown at approximately 20% per annum.

As a result of the services provided by CCBEC 423 fulltime and 363 part time jobs were created on the Central Coast during 2009-10 (*source CCBEC Customer Tracking study October 2010*).

### Customer Tracking Study October 2010

In October 2010 the CCBEC contracted Micromex Research to undertake a client survey to ascertain awareness of and the key reasons that clients utilise the CCBEC, client satisfaction and to identify further opportunities to assist with business growth.



Overall the results of the survey indicate that the CCBEC's client base is very satisfied with the agency's services, people and performance. Attachment 1 is a copy of the Executive Summary of the survey and provides detailed information of the survey results.

The results are consistent with a quantitative evaluation of Business Advisory Services (BAS) undertaken by NSW Department of Industry and Investment that showed that the CCBEC exceeded the State average result in every category for delivery of Business Advisory Services. Importantly CCBEC clients were found to be more likely to have acted on advice provided during their meetings, as well as experienced a positive impact when advice was acted upon.

### **Recent Changes to the CCBEC Constitution**

At a Special General Meeting on 25 March 2010 a new constitution was adopted by way of special resolution at a Special General Meeting. One of the changes to the constitution was that Wyong Council, Gosford Council and Regional Development Australia Central Coast would no longer have appointed representatives on the Board of Management. In place of a board representative, an agreed set of KPIs would be put in place to monitor Council's "investment" in the organisation.

Due to some concerns with the new constitution (in particular qualifications for membership), the constitution is again being reviewed for presentation to the members for comment and voting.

### **CONCLUSION**

The Central Coast Business Enterprise Centre (CCBEC) is a non-profit, non-political organisation providing a range of free and fee based services to the business community to promote business development on the Central Coast. Since its inception in 1998 the CCBEC has grown and diversified to meet the changing needs of businesses on the Central Coast.

CCBEC clients represent the future of small business on the Central Coast. 85% of businesses working with CCBEC are less than ten years old and businesses working with CCBEC have grown at approx 20% per annum.

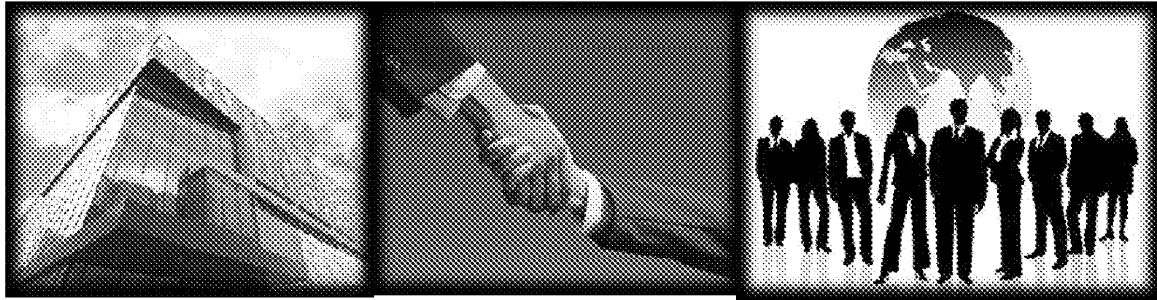
A Customer Tracking Study undertaken by Micromex Research in October 2010 reported that as a result of the services provided by CCBEC 423 full time and 363 part time jobs were created on the Central Coast during 2009-10.

The CCBEC is funded by all levels of government. The funding for Central Coast Business Enterprise Centre is included in Council's 2010-11 budget.

CCBEC as an organisation continues to provide high quality services to small business on the Central Coast and is committed to achieving tangible results for local business. CCBEC is a group of experienced business professionals that are focussed on sharing their experience and to continue to provide their programs, mentoring and advisory services to small business on the Central Coast.

### **ATTACHMENTS**

- 1 Executive Summary CCBEC Client Tracking Survey October 2010. D02455076



# Central Coast Business Enterprise Centre Customer Tracking Study

October 2010

Prepared for:



Prepared by:



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The information contained herein is believed to be reliable and accurate. However, no guarantee is given as to its accuracy and reliability, and no responsibility or liability for any information, opinions or commentary contained herein, or for any consequences of its use, will be accepted by Micromex Research, or by any person involved in the preparation of this report.

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## Background

The Central Coast Business Enterprise Centre (CCBEC) is a not for profit organisation based in the Tuggerah Business Park on the Central Coast of NSW. Its primary role is to support the development of small/micro businesses on the Central Coast.

Development support is provided through a variety of means, which include but are not limited to:

- The conduct of local educational seminars and workshops
- The provision of a business mentor service
- 1on1 guidance with CCBEC staff
- A professional referral service

To assist the CCBEC in understanding the impact of their services on Central Coast businesses Micromex Research was contracted to undertake a CCBEC client survey. The key objectives of the survey included:

- Determining the sources of awareness of the CCBEC
- Identifying key reasons for utilising the CCBEC
- Measuring satisfaction with the CCBEC, including:
  - Quality of the information provided
  - Knowledge and ability of CCBEC staff
  - Delivery of programs
  - Quality of outcomes
- Identifying further opportunities to assist with business growth
- Identifying the impact on businesses of the services provided
- Developing a general profile of CCBEC clients

This report summarises the results of the survey.

## Methodology and Analysis

The survey questionnaire was designed by Micromex Research with assistance from the CCBEC. On Friday September 10, 2010, the CCBEC distributed the survey invitation to 1,437 CCBEC clients by email with a web link to the survey.

In total, 210 interviews were completed. This represents 15% of the CCBEC client base.

A sample size of 210 clients provided a maximum sampling error of plus or minus 6.3% at 95% confidence.

Data analysis was undertaken using SPSS and the report compiled using Microsoft Excel and Word.

**Errors:** Data in this publication is subject to sampling variability because it is based on information relating to a sample of customers rather than the total number. This difference (sampling error) may occur due to imperfections in reporting and errors made in processing the data. This may occur in any enumeration, whether it is a full count or sample.

Efforts have been made to reduce the non-sampling error by careful design of the questionnaire and detailed checking of completed questionnaires.

## A Snapshot of a CCBEC Client

CCBEC Client (overall)	Snapshot of an average CCBEC Client
Age	35-54 years old
Gender	Marginally more likely to be female and be from a business run by females
Education Centre Cell	Degree/postgraduate degree or a TAFE/diploma/apprenticeship
Business life cycle	Just as likely to be running a business in its infancy, as they are a business that they describe as growing or established. Less likely to be considering starting a business
How they found out about the CCBEC	Via recommendation/word of mouth
Reason they initially chose to contact the CCBEC	<ul style="list-style-type: none"> <li>• Considering setting up a business</li> <li>• Trying to set up a business</li> <li>• Needed general guidance/help</li> </ul>
CCBEC services utilised	Predominantly utilised seminar/workshops but also likely to have utilised other CCBEC services
Opinion of CCBEC services	Rates very highly the services provided by the CCBEC and in particular CCBEC's personnel
Opinion of the outcome provided by CCBEC	Rates very highly the outcomes provided by the CCBEC
Key identified criteria affecting growth	<ul style="list-style-type: none"> <li>• Proper financial management</li> <li>• Access to quality business advice/training</li> <li>• Attractive sales and marketing strategies</li> <li>• Improving access to new markets</li> <li>• Improving the quality of products/services</li> </ul>
Criteria that has most inhibited their growth	<ul style="list-style-type: none"> <li>• Good economic conditions</li> <li>• Access to loans and/or financing</li> <li>• Improving access to new markets</li> <li>• Attractive sales and marketing strategies</li> </ul>
Actions undertaken	87% have acted on advice provided by the CCBEC, with 94% experiencing a positive outcome from the action
Future relationship with CCBEC	Expects to continue a relationship with the CCBEC and to recommend the CCBEC to family and friends
<b>CCBEC Clients currently operating a business</b>	
Years business has been in operation	Business is 3 years old or younger
Employment	Employs 1.4 full time staff and 1.2 part time employees
Industry sector	Not necessarily from any specific industry type
Business structure	Runs a sole proprietorship or a company, which operates from home
Business premises	Operates their business from home, within either the Wyong Shire or Gosford City Council areas
Business turnover	Represent a business with very low levels of turnover
Recent business growth	Business has grown by 19% per annum over the past 3 years
Expected business growth	Expects the business to grow by 23% per annum over the next 3 years
Preferred growth strategy	Wishes to grow their business, but is just as likely to want this growth to be slow as they are to want this growth to be quick

## Key Findings

### Overall Summary

Overall, the results from this survey indicate that the CCBEC's client base is very satisfied with the agency's services, people and performance.

### **Companies' age and stage in the business life cycle**

Responses indicate that clients of the CCBEC represent businesses at various stages of their life cycle, with 'infancy' (30%), 'growing' (30%) and 'quite established' (22%) the most predominant.

CCBEC clients represent businesses of varying ages with the majority (52%) involved with businesses who were 3 years of age or less. Importantly, clients are also representative of mature businesses with 33% representing a business 7 years or older.

The average age of a CCBEC client's business is 4.7 years.

- The CCBEC offerings/services need to be cognisant of the wide variety of business life cycles in which their clients operate
- In order to expand the current reach into the mature business market, consideration should be given to the development of specific offerings for this segment

### **Business growth**

On average, the businesses of CCBEC clients have achieved moderate levels of growth over the past 3 years, equating to 19% growth per annum.

Expected growth in the next 3 years is moderately stronger and equates to 23% per annum.

By grouping the outcomes further we can identify 3 specific growth bands for CCBEC clients:

- |                                 |              |                    |
|---------------------------------|--------------|--------------------|
| • Low growth - 10% or less p/a  | Past 3 years | 53% of respondents |
|                                 | Next 3 years | 33% of respondents |
| • Moderate growth - 11%-30% p/a | Past 3 years | 17% of respondents |
|                                 | Next 3 years | 28% of respondents |
| • High growth – over 30% p/a    | Past 3 years | 30% of respondents |
|                                 | Next 3 years | 40% of respondents |

## Key Findings (Cont'd)

### Business growth (Cont'd)

Responses indicate that CCBEC clients have a general objective of growing their business, but this objective is generally evenly spread amongst those clients who wish to grow 'quickly' (42%) or 'slowly' (48%). This spread is even identified amongst those clients whose business is only in its infancy (45% quickly/53% slowly).

- Business growth is identified as a key issue for CCBEC clients, especially when viewed in conjunction with current turnover rates. The CCBEC needs to be sympathetic to clients' 'preferences' to grow their business slowly, but should also consider educating clients on planning for and accommodating higher levels of growth, thus confronting a client's concerns within this area
- With a high percentage of CCBEC clients experiencing low growth over the past 3 years and expecting low growth in the next 3 years, consideration should be given to educating businesses on how to improve profitability in low growth environments, especially in regards to the effects of increasing costs on businesses that experience low levels of growth
- Consideration should be given to developing educational programs that specifically target a business's growth objectives

### Importance of various criteria in assisting to grow/consider starting a business

In this section, respondents were asked to rate the importance of 10 specific criteria with regards to assisting them to grow their business or to start their business.

The key outcome from this question is that respondents who have already started their business rated 8 of the 10 criteria to be of higher importance compared to respondents who are considering starting a business. This result suggests respondents who are already in business have a better appreciation of the complexities involved with the operation of a business and hence place greater importance on a range of criteria that may assist businesses to grow.

Overall the most important criteria are identified by both segments as:

- Proper financial management
- Access to quality business advice/training
- Attractive sales and marketing strategies
- Improving access to new markets
- Improving the quality of products/services

The key criteria that respondents currently in business rated to be of significantly higher importance than those considering starting a business, included:

- Good economic conditions
- Better information and communications technology

In contrast, access to loans and/or financing was of significantly higher importance to those respondents who were considering starting a business.



## Key Findings (Cont'd)

### Importance of various criteria in assisting to grow/consider starting a business (Cont'd)

Even those criteria that were rated to be of lower importance overall, were still rated as important or very important by a high percentage of respondents, i.e.:

- Access to loans and/or financing (40% important or very important)
- Assistance with red tape and legislative requirements (52% important or very important)

Respondents were then asked which of the criteria that they had rated as important had actually inhibited their business growth to some extent. All criteria were adjudged to have inhibited business growth, with the lowest inhibitor (still 23% of the total sample) identified as being 'improving the quality of products/services'.

The key growth inhibitors were identified as:

- Good economic conditions 65% (40% of the total sample)
  - Access to loans and/or financing 60% (24% of the total sample)
  - Improving access to new markets 52% (38% of the total sample)
  - Attractive sales and marketing strategies 47% (35% of the total sample)
- Consideration should be given to tailoring educational programmes to meet the criteria identified as most important to growing/starting their business and as having had the most impact on their business growth

### CCBEC contact

Word of mouth plays a critical role in introducing clients to CCBEC. 45% of customers were initially introduced to CCBEC by referral or word of mouth recommendation, whilst newspaper advertisement (19%), Internet search (14%) and information stall at an expo or community event (8%), also achieved a level of cut through.

Respondents considering starting a business were less likely than those already in business to have become aware of CCBEC via word of mouth and more likely to have become aware via a newspaper advertisement.

For respondents who were considering starting a business, their key reason for contacting the CCBEC was specifically related to their situation; that they were 'considering setting up a business'.

For respondents whose business was currently in operation, the predominant reasons as to why they contacted the CCBEC were that they were considering setting up a business (16%), trying to set up a business (19%) or they needed general guidance/help (23%).

Of interest, was the result that very few respondents whose business was currently in operation had originally contacted the CCBEC because their business was having financial difficulties (3%) or they needed help with their business/marketing plan (6%).

- The strength of word of mouth referrals highlights a need for the CCBEC to leverage current/recent clients as advocates. Consideration should be given to the formulation of a communication plan in this regard
- The results highlight the importance of media usage, specifically to contact individuals considering setting up a business. The results of this research should be analysed in relation to the individual media's return on investment, with a targeted promotional campaign developed around the outcomes

## Key Findings (Cont'd)

### CCBEC service delivery

Respondents considering starting a business had predominantly attended a seminar/workshop (65%) or received 1on1 guidance with CCBEC staff (45%).

In contrast, respondents whose business was currently in operation had utilised a wider variety of the CCBEC's services, with the most popular being seminar/workshops (64%) and 1on 1 guidance with CCBEC staff (45%), followed by business mentor service (36%) and professional referrals (28%).

Overall, the quality of CCBEC's offer is identified as very strong. 91% of customers rated CCBEC's outcomes as being either 'good' or 'excellent'.

- 54% rated the quality of outcomes as 'excellent'
- 37% rated the quality of outcomes as 'good'

When asked to rate 12 specific criteria in relation to the CCBEC's service delivery, the research identifies that respondents are 'satisfied' to 'very satisfied' with all of the criteria. Satisfaction is identified as highest for those services that relate directly to the performance of CCBEC staff, whilst satisfaction is lower where CCBEC utilises non CCBEC staff, in such instances as the business mentor service, seminar/workshops and professional referrals.

Respondents were also asked how the quality of outcome provided by CCBEC could be improved. A review of the qualitative comments identifies the following themes regarding this improvement:

- Improve the quality of non CCBEC staff utilised or referred to
  - Improve the communication flow from CCBEC
  - Provide higher level learning opportunities for clients who are currently operating a business
  - Provide more networking opportunities
- Consideration should be given to the identification (and implementation) of opportunities for improvement in the delivery of services utilising non CCBEC staff
  - Consideration should be given to providing formalised feedback to non CCBEC staff utilised
  - Opportunities for improving communication flow from the CCBEC should be identified and implemented

### Key results of CCBEC interaction

The research indicates that the large majority of respondents (87%) have acted on advice provided by the CCBEC. These results are similar for respondents who are considering starting a business or are in a business currently in operation.

The research indicates that the large majority of respondents who have acted on advice provided by the CCBEC, have identified a positive impact on their business (94%).

Of the total sample, 81% of respondents had acted on advice provided by the CCBEC and had experienced a positive impact from the actions they undertook.

These results are similar for respondents who are considering starting a business or are in a business currently in operation.

## Key Findings (Cont'd)

### Likelihood of utilising CCBEC services in the future and recommending CCBEC

Overall, respondents indicate a strong likelihood that they will utilise the CCBEC's services in the future, with only 10% stating that they were not likely to use the CCBEC's services again. Respondents who were considering starting a business were significantly more likely to state that they would utilise the CCBEC in the future when compared with respondents whose business was currently in operation.

Overall, respondents indicate a very strong likelihood that they will recommend the CCBEC to family or friends, with only 3% stating that they were not likely to recommend the CCBEC.

- Further opportunities should be investigated as to how to continue to develop and grow relationships with current clients, increasing both their propensity to continue utilising CCBEC's services as well as recommending the CCBEC

### Expanding the CCBEC Offer

In this section, respondents were asked to rate the attractiveness to them of 5 potential new services. Whilst *overall* the attractiveness of the proposed services was only moderate when we analyse the segments more closely we identify that there was a significant core of respondents that were very attracted to the proposed services. These included:

- 38% for assistance in raising finance and capital
- 34% for quarterly Q&A dinners with a panel of professionals
- 32% for programs that assist businesses develop sustainable practices that will have a positive impact on the environment, the community and their bottom line
- 23% for serviced office space with flexible tenancy and shared support services
- 20% for programs about environmental sustainability

Of interest was the result that programs regarding sustainable practices that impact the bottom line were significantly more attractive to respondents than environmental sustainability programs that did not specifically refer to the bottom line.

- Further investigation should be conducted as to the development and implementation of the 5 potential new services measured within this research
- The research identifies that 68% of CCBEC clients operate a business from home, suggesting that specific investigation should be conducted as to the provision of serviced office space with flexible tenancy and shared support services

### Perceptions of CCBEC services

The research identifies a strong perception from respondents whose business is currently in operation that the CCBEC assists new and growing businesses (35%), rather than established businesses.

- CCBEC marketing and promotion should highlight services that assist not only new or potential businesses but also established businesses

## Comparisons With Industry Benchmarks

In August of 2006, a quantitative evaluation of Business Advisory Services was conducted by Sweeney Research for the NSW Department of State and Regional Development. It was titled the 'Business Advisory Service Evaluation 2006.'

Key comparisons are made in the table below between the applicable outcomes of the 2006 evaluation and this research. It is important to note that in 2006, the criteria were rated with regards to the 'BAS Business Facilitator,' whilst in this research criteria were rated with regards to '1 on 1 guidance with CCBEC staff.'

### Comment

Comparisons indicate that the CCBEC has performed above the Business Advisory Service Evaluation Benchmark for all 10 rated criteria.

Importantly, CCBEC clients are more likely to have acted on advice provided during their meetings, as well as experienced a positive impact when acting upon advice provided.

Criteria	Business Advisory Service Evaluation 2006	CCBEC Customer Research 2010
Helpfulness of information in resolving business issues	7.6	8.6
Amount of information provided	7.8	8.7
Ease of acting on information	7.5	8.4
Accuracy of information	8.3	8.7
Visual appeal of written information	7.6	8.1
Ease of understanding information	8.0	8.5
Their knowledge	8.4	8.9
Their understanding of business issues	8.0	8.8
Ability to refer to other service providers	7.8	8.7
Courtesy of staff	9.1	9.5
% who had acted on advice provided	76%	87%
% who had experienced a positive impact when acting upon advice provided	73%	94%

## **7.4 Investments for November and December 2010**

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TRIM REFERENCE: F2004/06604 - D02498668  
AUTHOR: Hannah Pulham; Finance Officer  
MANAGER: Greg Ashe; Manager Finance

### **SUMMARY**

The following report details Council's investments as at 30 November and 31 December 2010.

### **RECOMMENDATION**

***That Council receive the report on Investments for November and December 2010.***

### **BACKGROUND**

WSC's investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation (2005), Council's Investment Policy, the Ministerial Investment Order issued in August 2008 and Division of Local Government Investment Policy Guidelines published in May 2010.

Council's portfolio includes investments in managed funds which were permitted under the previous Minister's order, however are now held under the "grandfather" provisions of the current Ministers Order. Additionally, the investments held in Blackrock Care and Maintenance Fund and ING Enhanced are subject to wind up and termination of fund processes. This was the result of the flow on effects of the global financial crisis in 2008 which saw fund liquidity drop which resulted in the termination of both the Blackrock and ING funds.

### **CURRENT STATUS**

In November 2010, the total net return was \$0.40m consisting of interest earnings \$0.41m and a capital loss of \$0.01m.

In December 2010, the total net return was \$0.67m consisting of interest earnings \$0.44m and capital gains of \$0.23m.

Table 1 Investment Portfolio by Risk Category

	November 2010	December 2010	Year to date returns December 2010	
	\$ '000	\$ '000	%	\$ '000
Cash at Call	15,608	18,038	6.85	340
Term Deposits	75,028	64,246	6.02	2,083
Cash Plus Funds	15	15	0.00	-1
Cash Management Funds	8,143	8,259	15.29	770
Enhanced Income Funds	14,919	15,029	10.19	729
<b>Total Investments</b>	<b>113,713</b>	<b>105,587</b>	<b>8.04</b>	<b>3,921</b>

Returns in December of 8.04% (total) reflect WSC's capital recovery and compare favourably with the year-to-date UBSA Bank Bill Index of 4.93%.

Investment transactions and earnings during November and December 2010 are shown in Table 2 - Portfolio Performance.

Table 2 Portfolio Performance

	July - September 2010 \$m	October 2010 \$m	November 2010 \$m	December 2010 \$m	Year to Date 2010-11 \$m
<i>Movement in Assets</i>					
<b>Opening Balance</b>	<b>126.39</b>	<b>84.26</b>	<b>95.29</b>	<b>113.72</b>	<b>126.39</b>
Capital Gain/Loss – (see below)	0.92	0.30	(0.01)	0.23	1.44
Net Cash/Investments( Withdrawals)	(43.05)	10.73	18.44	(8.35)	(22.23)
<b>Closing Balance</b>	<b>84.26</b>	<b>95.29</b>	<b>113.72</b>	<b>105.60</b>	<b>105.60</b>
<i>Trading Position</i>					
Capital Gain/(Loss) Realised	-	-	-	-	-
Capital Gain/(Loss) Unrealised	0.92	0.30	(0.01)	0.23	1.44
Interest Earnings	1.32	0.32	0.41	0.44	2.48
<b>Total Return for Period</b>	<b>2.24</b>	<b>0.62</b>	<b>0.40</b>	<b>0.67</b>	<b>3.92</b>

Table 2a Draw-downs

Month	Amount \$m	Funding Need	Placement
July	2.5	Mardi-Mangrove/Mardi Suite	Water a/c
August	2.5	Mardi-Mangrove/Mardi Suite	Water a/c
August	20.0	General operational cash	Current a/c
September	2.2	Mardi-Mangrove/Mardi Suite	Water a/c
September	2.0	Link Road Warnervale	Current a/c
September	15.0	General operational cash	Current a/c
October	(10.7)	Re-investment	Current a/c
November	(18.4)	Re-investment	Current a/c
December	8.4	Mardi-Mangrove/Mardi suite	Water a/c

**Interest and Investment Returns**

Returns as at 31 December 2010 on the council investment portfolio of deposit accounts, term deposits and managed funds show a modest favourability overall compared to the original budget.

**Table 3 Performance at 31 December 2010**

<b>Investment Source</b>	<b>YTD Budget \$ '000</b>	<b>YTD Actual \$ '000</b>	<b>Var. \$ '000</b>
General Fund	1,815	1,742	(73)
Water	1,370	1,022	(348)
Sewerage	714	1,157	443
<b>Total</b>	<b>3,899</b>	<b>3,921</b>	<b>22</b>

Interest rates in the month on term deposits, other than a statutory \$10.1m deposit for Workcover, ranged from 5.88% to 6.40% and these rates exceeded the Union of Switzerland Australia (UBSA) bank bill index for December of 5.11%.

**Managed Funds**

WSC has \$23.3m invested in managed funds which are “grandfathered” investments under the Ministers Order. These investments in November made a capital loss of \$0.01m and in December made a capital gain of \$0.23m.

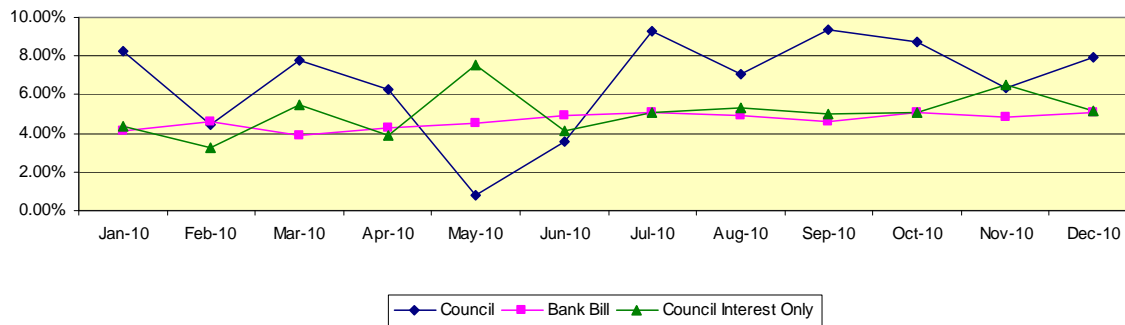
The creditworthiness of these investments remains satisfactory.

- Blackrock Care and Maintenance Fund \$8.26m – Residual balance of fund now held to maturity with distributions of capital made when assets in the portfolio mature or are sold. Income for November was \$127,142.26 and Income for December was \$115,699.46.
- ING Enhanced \$15,327 – Residual balance of fund now held to maturity with distributions of capital made when assets in the portfolio mature or are sold.
- Macquarie Global Income Opportunity \$15m – income for the month of November \$117,299.86 and income for the month of December \$110,059.14.

**Benchmark - Monthly Returns (Annualised)**

Council’s overall investment return is compared to the UBSA Bank Bill Index. This is a common benchmark used in Local Government and establishes a minimum performance level.

A graph detailing the monthly return on a 12 monthly basis is as follows:

**Table 4 Monthly Annualised Returns (Interest and Capital Movements)****Portfolio Performance Comparison to UBSA Bank Bill Index**

**Council:** *Council Total Return (Interest and Capital)*  
**Bank Bill:** *UBSA Bank Bill Index*  
**Council Interest Only:** *Council Interest Earnings*

**INVESTMENT STATEMENT**

In accordance with the Local Government (General) Regulation 2005, Part 9, Division 5, Clause 212, it is certified that the investments held as at 30 November 2010 and 31 December 2010 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

**CONCLUSION**

Council has significantly reduced its holdings in managed funds, with the majority of investments now held in term deposits as required under the provisions of the ministerial investment order.

All investments are being carefully managed to ensure that value is added to the considerable fixed interest portfolio.

**ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Summary of Investments by Type as at 30 November 2010 | D02459531 |
| 2 | Summary of Investments by Type as at 31 December 2010 | D02487930 |



**Wyong Shire Council**  
**Summary of Investments - By Type**  
**As at 30 November 2010**

FUND MANAGER	MATURITY	PORTFOLIO BALANCE 31.10.10 \$	PORTFOLIO BALANCE 30.11.10 \$	INCOME FOR MONTH \$	INTEREST RATES % p.a.
<b>CASH AT CALL:</b>					
Westpac Corporate Investment Account (AA)	Daily	-	12,459,798	9,798	
LGFS Overnight Call Account (A2)	Daily	-	3,009,062	9,062	
UBS Cash Account (AA)	Daily	164,489	138,988	2,683	
<b>Total Cash At Call</b>		<b>164,489</b>	<b>15,607,848</b>	<b>21,543</b>	
<b>TERM DEPOSITS &amp; BONDS</b>					
T-Corp (WorkCover NSW)	03/12/2010	9,896,000	9,896,000	37,659	4.63
ANZ Term Deposit	19/11/2010	5,000,000	-	15,616	6.00
SunCorp Term Deposit	26/11/2010	2,000,000	-	8,975	6.30
SunCorp Term Deposit	06/12/2010	3,000,000	3,000,000	15,164	6.15
ANZ Term Deposit	06/12/2010	3,000,000	3,000,000	14,671	5.95
Westpac Term Deposit	21/12/2010	5,000,000	5,000,000	24,164	5.88
BankWest Term Deposit	20/01/2011	5,000,000	5,000,000	24,452	5.95
Westpac Term Deposit	08/03/2011	5,000,000	5,000,000	32,055	6.00
Bendigo/Adelaide Term Deposit	15/04/2011	5,000,000	5,000,000	26,301	6.40
NAB Term Deposit	18/04/2011	10,000,000	10,000,000	49,808	6.06
IMB Term Deposit	09/05/2011	-	5,000,000	17,922	6.23
LGFS Term Deposit	17/05/2011	5,000,000	5,000,000	25,315	6.16
SunCorp Term Deposit	22/06/2011	5,000,000	5,000,000	26,096	6.35
NAB Term Deposit	07/07/2011	-	5,000,000	17,893	6.22
IMB Term Deposit	18/07/2011	5,000,000	5,000,000	25,274	6.15
Westpac Deposit Bond	24/09/2012	4,138,439	4,132,284	24,033	5.13
<b>Total Term Deposit &amp; Bonds:</b>		<b>72,034,439</b>	<b>75,028,284</b>	<b>385,400</b>	
<b>CASH PLUS:</b>					
ING Enhanced (A)	To be liquidated - Fund Termination in Process.	15,220	15,274	54	
<b>Total Cash Plus</b>		<b>15,220</b>	<b>15,274</b>	<b>54</b>	
<b>CASH MANAGEMENT FUNDS:</b>					
BlackRock Care & Maintenance Fund	June 2015 (Estimate)	8,270,604	8,143,462	-127,142	
LGFS Fixed Out-Performance Cash Fund (AA-f)	Closed 20.11.10	-	-	-	
<b>Total Cash Management Funds</b>		<b>8,270,604</b>	<b>8,143,462</b>	<b>(127,142)</b>	
<b>ENHANCED INCOME:</b>					
Macquarie Global Income Opportunity	Open Ended	14,801,505	14,918,805	117,300	
<b>Total Enhanced Income</b>		<b>14,801,505</b>	<b>14,918,805</b>	<b>117,300</b>	
<b>TOTAL</b>		<b>95,286,257</b>	<b>113,713,673</b>	<b>397,155</b>	

**Wyong Shire Council**  
**Summary of Investments - By Type**  
**As at 31 December 2010**

FUND MANAGER	MATURITY	PORTFOLIO BALANCE 30.11.10 \$	PORTFOLIO BALANCE 31.12.10 \$	INCOME FOR MONTH \$	INTEREST RATES % p.a.
<b>CASH AT CALL:</b>					
Westpac Corproate Investment Account (AA)	Daily	12,459,798	11,867,696	67,898	
LGFS Overnight Call Account (A2)	Daily	3,009,062	6,033,265	24,203	
UBS Cash Account (AA)	Daily	138,988	136,683	4	
<b>Total Cash At Call</b>		<b>15,607,848</b>	<b>18,037,644</b>	<b>92,105</b>	
<b>TERM DEPOSITS &amp; BONDS</b>					
T-Corp (WorkCover NSW)	03/03/2011	9,896,000	10,120,000	42,194	4.95
SunCorp Term Deposit	06/12/2010	3,000,000	-	3,033	6.15
ANZ Term Deposit	06/12/2010	3,000,000	-	2,934	5.95
Westpac Term Deposit	21/12/2010	5,000,000	-	16,915	5.88
BankWest Term Deposit	20/01/2011	5,000,000	5,000,000	25,267	5.95
Westpac Term Deposit	08/03/2011	5,000,000	5,000,000	25,479	6.00
Bendigo/Adelaide Term Deposit	15/04/2011	5,000,000	5,000,000	27,178	6.40
NAB Term Deposit	18/04/2011	10,000,000	10,000,000	51,468	6.06
IMB Term Deposit	09/05/2011	5,000,000	5,000,000	26,456	6.23
LGFS Term Deposit	17/05/2011	5,000,000	5,000,000	26,159	6.16
SunCorp Term Deposit	22/06/2011	5,000,000	5,000,000	26,966	6.35
NAB Term Deposit	07/07/2011	5,000,000	5,000,000	26,414	6.22
IMB Term Deposit	18/07/2011	5,000,000	5,000,000	26,116	6.15
Westpac Deposit Bond	24/09/2012	4,132,284	4,125,923	24,834	5.13
<b>Total Term Deposit &amp; Bonds:</b>		<b>75,028,284</b>	<b>64,245,923</b>	<b>351,413</b>	
<b>CASH PLUS:</b>					
ING Enhanced (A)	To be liquidated - Fund Termination in Process.	15,274	15,328	54	
<b>Total Cash Plus</b>		<b>15,274</b>	<b>15,328</b>	<b>54</b>	
<b>CASH MANAGEMENT FUNDS:</b>					
BlackRock Care & Maintenance Fund	June 2015 (Estimate)	8,143,462	8,259,162	115,699	
<b>Total Cash Management Funds</b>		<b>8,143,462</b>	<b>8,259,162</b>	<b>115,699</b>	
<b>ENHANCED INCOME:</b>					
Macquarie Global Income Opportunity	Open Ended	14,918,805	15,028,864	110,059	
<b>Total Enhanced Income</b>		<b>14,918,805</b>	<b>15,028,864</b>	<b>110,059</b>	
<b>TOTAL</b>		<b>113,713,673</b>	<b>105,586,921</b>	<b>669,330</b>	

## **7.5 Delegate's Report - The Australian Local Government Women's Association - National Conference - Women Going Places**

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TRIM REFERENCE: F2004/06517 - D02487562  
AUTHOUR: Jacquie Elvidge; Administration Assistant  
MANAGER: Lesley Crawley; Manager Corporate Governance

### **SUMMARY**

Report submitted by Councillor Matthews on attendance at The Australian Local Government Women's Association – National Conference – Women Going Places held in Ryde between 25 and 27 November 2010.

### **RECOMMENDATION**

***That Council receive the Delegate's Report - The Australian Local Government Women's Association - National Conference - Women Going Places.***

### **ATTACHMENTS**

- |          |  |           |
|----------|--|-----------|
| <b>1</b> | Councillor Matthews Delegate's Report - The Australian Local Government Women's Association - National Conference - Women Going Places | D02487586 |
|----------|--|-----------|

**Information Report- Cr Lisa Matthews**  
**Attendance at the Women Going Places**  
**Conference**  
**November 2010 Ryde NSW**

Delegates were welcomed by the General Manager and Mayor of Ryde giving a brief overview of their city and how encouraged they were by being able to host this Conference.

There were many influential speakers who provided useful information to ponder about and really get you thinking.

All sessions were held in the main Auditorium and a variety of topics were discussed.

This Conference allowed me to network with other Female Councillors of which many of them have been in Council for many years, to gather information on how to perform better in the public eye and lastly encouraged me to continue on to identify other Strong female leaders who too could be destined for Local Government.,

## **7.6 Warnervale Town Centre Progress Report December 2010 - January 2011**

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TRIM REFERENCE: F2004/00535-07 - D02491291  
AUTHOR: Danielle Dickson, Manager Major Projects  
MANAGER: Michael Whittaker; General Manager

### **SUMMARY**

The Council has requested a monthly update on the progress of the Warnervale Town Centre project. The attached report shows the current status of the Warnervale Town Centre project for the months of December 2010 and January 2011.

### **RECOMMENDATION**

***That Council receive the report on Warnervale Town Centre Progress Report December 2010 - January 2011.***

### **MAJOR MILESTONES ACHIEVED FOR THESE MONTHS\***

*Item 2(a) (i) –*

Additional information has been lodged with the Department of Planning (DoP) to support Council's requested amendments. It is expected that the amended DCP will be placed on public exhibition during March 2011.

*Item 2(e) (ii) – Woolworths*

The DoP has issued the Federal Director General requirements for the Woolworths proposal, DoP is awaiting final lodgement of the Part 34 application by Woolworths.

### **ATTACHMENTS**

- |          |   |           |
|----------|---|-----------|
| <b>1</b> | Warnervale Town Centre Progress Report December 2010 - January 2011 | D02499141 |
|----------|---|-----------|

## 1 ITEMS FOR WHICH COUNCIL HAS RESPONSIBILITY:

#	ITEM DESCRIPTION	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
a	Appointment of a Warnervale Town Centre Project Manager	TBD	Completed	100%	December 2010	<ul style="list-style-type: none"> <li>• At the Ordinary Meeting of Council dated 28 July 2010, Council resolved unanimously on the motion of Councillor BEST and seconded by Councillor VINCENT:               <ol style="list-style-type: none"> <li>1. That Council progress the Warnervale Town Centre Project by appointing a Project Manager.</li> <li>2. That Council continue to lobby the various State and Federal Governments agencies to assist with infrastructure delivery and work with landowners to deliver this important project.</li> </ol> </li> <li>• John Pearce was successful in the position of Senior Development Manager and commenced with Council on 6 December 2010.</li> </ul>
b	Biodiversity Certification Assessment for the Warnervale Town Centre	\$30K	Commenced	75%	TBD	<ul style="list-style-type: none"> <li>• Biodiversity certification (Biocertification) will provide for the protection of biodiversity, including threatened species, at the strategic planning stage. Certification can switch off the need for threatened species assessment under the Environmental Planning and Assessment Act 1979, providing more certainty for local government, development applicants and other stakeholders.</li> <li>• A Consultant (Eco Logical Australia Pty Ltd) has prepared a Biodiversity Certification Assessment of the Warnervale Town Centre (and Wyong Employment Zone). Field investigations took place between 13-17 September 2010.</li> <li>• Council had originally committed to making a Biodiversity Certification Application to the Department of Environment, Climate Change &amp; Water (DECCW) by November 2010. However Council cannot finalise its application until the draft Biodiversity Certification Assessment Methodology is finalised by DECC&amp;W. The timing of the application will depend on DECCW timeframes for the adoption of the Biocertification methodology - see Part 2(c).</li> </ul>
c	Assessment of the Viability of Units within the Warnervale Town Centre	\$20K	Commenced	20%	February 2011	<ul style="list-style-type: none"> <li>• At the Ordinary Meeting of Council dated 12 May 2010, Council resolved unanimously on the motion of Councillor EATON and seconded by Councillor BEST:               <p>That Council staff report on the viability of developing the 1,100 units proposed for Warnervale Town Centre and possible variation of proposed densities to ensure viable town centre development.</p> </li> <li>• Council has made representations to the Department of Planning (DoP) recommending amendments to the Development Control Plan (DCP) and State Environmental Planning Policy (SEPP) which will impact on the results of this assessment. Therefore, this assessment has been</li> </ul>

#	ITEM DESCRIPTION	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
d	Amendments to Warnervale Town Centre Development Control Plan 2008 (DCP)	Internal Staff Resources	Commenced	40%	TBD	<p>delayed. Once the amended DCP is placed on exhibition this action will be completed.</p> <ul style="list-style-type: none"> <li>• A letter was sent to the Director-General of the Department of Planning (DoP) on 23 July 2010, formally requesting that Council be permitted to amend some items within the DCP. A number of amendments are sought, including changes in relation to: <ul style="list-style-type: none"> <li>- Development Targets;</li> <li>- Modification of some intersection alignments and treatments;</li> <li>- Various Water Sensitive Urban Design (WSUD) measures;</li> <li>- Indicative Staging Plan;</li> <li>- Street lane widths;</li> <li>- Relocation of footpath alignments away from property boundaries;</li> <li>- Increasing width for services along roads;</li> <li>- Width of cycleways and bicycle routes;</li> <li>- Realignment of the Mataram Road extension; and</li> <li>- Setbacks for town centre civic precinct land.</li> </ul> </li> <li>• On 16 August 2010, the Department of Planning advised that it agreed to Council's request to undertake a review of the DCP and requested that Council submit the final scope of recommended amendments to the Department of Planning for review.</li> <li>• On 6 September 2010, Council (as the consent authority) provided a final scope of recommended amendments to the Department of Planning.</li> <li>• On 12 October 2010, Council provided a supplementary submission to the Department (as the land owner) on further changes to the DCP and associated SEPP.</li> <li>• On 22 October 2010, the DOP advised that it has received requests from several land owners to amend the DCP.</li> <li>• A meeting with DoP took place on 11 November 2010 where DoP requested that Council provide additional information to support its submission requesting amendments to the DCP. In addition Council will draft wording for some alternative clauses as requested. This information has been provided to DoP.</li> </ul>
e	Preparation of	Internal Staff	Commenced	70%	Draft Report –	<ul style="list-style-type: none"> <li>• The Warnervale Town Centre DCP requires the consent authority to prepare a Public Domain Plan.</li> </ul>

#	ITEM DESCRIPTION	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
	Warnervale Town Centre Public Domain Plan	Resources			End 2010 Adopted - February 2011	<p>The Public Domain Plan will address:</p> <ul style="list-style-type: none"> <li>- Open Space Structure</li> <li>- Paving</li> <li>- Planting</li> <li>- Street Furniture</li> <li>- Lighting</li> <li>- Safety &amp; Amenity</li> <li>- Movement, Pedestrian Amenity and Traffic Management</li> <li>- Signage</li> <li>- Water Sensitive Urban Design requirements</li> <li>- Indicative Costing, Staging and Procurement</li> </ul> <ul style="list-style-type: none"> <li>• Council has prepared a Project Management Plan to prepare the Public Domain Plan internally, with some external assistance with design drawings.</li> <li>• The Public Domain Plan is expected to be completed by early 2011 (subject to consideration of changes to the DCP by DoP).</li> <li>• Draft Public Domain Plan completed and distributed for comment. Plan based on DCP and focussed on controls, guidelines and examples. Revisions being made based on feedback.</li> </ul>
<b>f</b>	<b>Water &amp; Sewer Infrastructure (southern side of ridgeline)</b>					
	i Design	Internal Staff Resources	Commenced	80%	Sewer - January 2011 Water - January 2011	<ul style="list-style-type: none"> <li>• Council is proceeding with investigation and design of both the water and sewer component of this project. <ul style="list-style-type: none"> <li>- Trunk water: Temporary Water pump station in Nikko Rd and the delivery main detail design is nearing completion.</li> <li>- Trunk sewer: Design of the sewer gravity main to SPS C13 has been completed and tender documents are being finalised.</li> </ul> </li> </ul>



#	ITEM DESCRIPTION	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
	ii Construction	Water – \$800K Sewer – \$6 million	Early 2011	0%	Water – August 2011 Sewer – November 2011	<ul style="list-style-type: none"> <li>Construction tenders to be called: <ul style="list-style-type: none"> <li>Sewer infrastructure construction: February 2011.</li> <li>Water infrastructure construction: February 2011.</li> </ul> </li> </ul>
<b>g</b>	<b>Water &amp; Sewer Infrastructure (northern side of ridgeline)</b>	TBD	TBD	0%	TBD	<ul style="list-style-type: none"> <li>Northern side of the ridge will not have sewer infrastructure until at least 2020, but interim options using a developer-funded temporary pump station could be pursued if necessary.</li> </ul>
<b>h</b>	<b>Section 94 Development Contributions</b>	Internal Staff Resources	Commenced	90%		<ul style="list-style-type: none"> <li>Council had completed the Draft S.94 Contributions Plan revision, with proposed contributions rates well below the \$34,682/lot cap that was previously imposed elsewhere in the Warnervale area.</li> <li>On 4 June 2010, the Minister for Planning issued a S.94E Direction capping contributions at \$20,000 per lot/dwelling from 7 June 2010.</li> <li>On 9 June 2010, a briefing of the Councillors was held which outlined the problems that the latest direction will present including a significant funding shortfall that will either need to be borne by ratepayers or result in a significant reduction in the level of community infrastructure proposed.</li> <li>On 31 August 2010, the Department of Planning announced revised reforms to local development contributions. These reforms now mean that should Council be able to levy up to \$30,000 per lot/dwelling in the town centre.</li> <li>It is now proposed to finalise the draft Section 94 Plan and brief Councillors on its content and seek approval to exhibit 2011. The draft S94 is to be reported to Council in March 2011.</li> <li>Council must then seek approval from the Department of Planning to exhibit the draft plan.</li> <li>It is expected that the Section 94 Plan could come into force by June 2011.</li> </ul>
<b>i</b>	<b>Community Facilities</b>					<p>The Social Planning Team in conjunction with the NSW Department of Premier and Cabinet and the Human Services Planning Team have commenced the design brief for the Knowledge Centre. Due to the level of Section 94 fund availability the key elements and functions of the remaining community facilities (Integrated Child and Family Centre, Arts and Cultural Centre and Youth Space) will be incorporated into the Knowledge Centre.</p>

#	ITEM DESCRIPTION	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
	i Knowledge Centre	\$18,405,000	TBD	0%	TBD	
	ii Integrated Child and Family Centre	\$8,180,000	TBD	0%	TBD	
	iii Youth Precinct	\$4,090,000	TBD	0%	TBD	
	iv Arts & Cultural Centre	\$4,090,000	TBD	0%	TBD	
j	<b>Integrated Water Cycle Management (IWCM)</b>					
	i Design	Internal Staff Resources –	Commenced	60%	Concept design & preliminary sizing of components completed February 2010. Design review required anticipated to take 6-12 months – completed mid to end 2011.	<ul style="list-style-type: none"> <li>In order to manage downstream wetland hydrology, storm water harvesting infrastructure is required. To this end, Council has prepared the Porters Creek Stormwater Harvesting Scheme for the catchment area. This scheme is under initial internal review, with the intention of a total review to be completed in the next 6 – 12 months.</li> <li>The Scheme will cover Warnervale Town Centre, Wyong Employment Zone and Precinct 7A.</li> <li>Warnervale Town Centre cost apportionment is \$7.1M.</li> <li>To fund the project, Council requires Section 94 Contributions funding for the new development areas of Warnervale Town Centre, Wyong Employment Zone and Precinct 7A.</li> <li>Easements need to be acquired over private land and development approvals sought to build and operate the Scheme.</li> <li>The Warnervale Town Centre DCP needs to be amended to reference the Porters Creek Stormwater Harvesting Scheme. This includes all of section 8 of the DCP, and the supporting documentation "Integrated Watercycle management strategy – Warnervale Town Centre, Nov 2006, Ecological Engineering, to be aligned with Council's WSUD (draft) DCP and the revised Porters Creek IWCSM scheme (as noted above). The Town Centre Plan also requires amendment as currently area/space allowances for water management are not adequate.</li> </ul>

#	ITEM DESCRIPTION	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
	ii Construction	\$47.1 million (to be revised through review process)	TBD	0%	TBD	<ul style="list-style-type: none"> <li>In March 2009 the Federal Government released its "Water for the Future" initiative, which provides grant funding for up to 50% of eligible costs for works including stormwater harvesting and reuse projects. Council submitted an application on 9 February 2010 for \$4.3M (approximately 50% of the Stage 1 \$8.9M works program).</li> <li>DEWHA (now DSEWPC) advised on the 9 September 2010 that Council was unsuccessful with the funding submission. A review of the implications to the project funding, scope of works and program are currently being undertaken. The Department has provided advice as to why the application was unsuccessful and indicated that a third funding round was highlighted during the federal election. Council will be working with the Department to develop the funding application and also seeking other funding opportunities from the Federal and State Government.</li> <li>Discussions with NSW DECCW have indicated that a water access licence is likely to be required for each wetland pumping station in the scheme. Discussions are continuing to assess the availability of water access licences and the impact to the project.</li> </ul>

## ITEMS FOR WHICH COUNCIL HAS PARTIAL RESPONSIBILITY AND/OR A FACILITATION ROLE:

#	ITEM DESCRIPTION	RESPONSIBLE AUTHORITY	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
a	Main Access Road						
	i Design	Landcom / Woolworths / Council	\$600K	Commenced	Awaiting Submission of amended design	December 2010	<ul style="list-style-type: none"> <li>Amended design of the Main Access Road submitted October 2010 and assessment complete. Returned for amending 3 November 2010 Completion expected in December 2010. Revised pavement design has been submitted.</li> </ul>
	ii Construction	Landcom / Woolworths / Council	\$5.77 million	Late 2011	0%	August 2012	<ul style="list-style-type: none"> <li>Construction cost estimates have been prepared and agreement has been reached between the 3 relevant landowners as to an equitable cost sharing agreement for construction of the Main Access Road.</li> <li>Council has successfully sought a \$2 million State Government "Local Infrastructure Support Fund" grant to reduce the cost of these works.</li> <li>A Review of Environmental Factors (REF) for Stage 1 of the Main Access Road was approved by Council on 13 October 2010.</li> <li>Deed to be prepared between Landcom and Council to cover the construction works.</li> </ul>
b	Intersection of Sparks Road / Main Access Road						
	i Preliminary Design	RTA / Landcom / Woolworths / Council	\$600K	Commenced	75%	October 2010	<ul style="list-style-type: none"> <li>The RTA has designed a concept plan for this intersection, and GHD has prepared a design for the intersection as part of the Main Access Road design consultancy.</li> <li>Council has provided comments to RTA on this design.</li> <li>NOTE: \$600K included in Main Access Road design budget.</li> </ul>

#	ITEM DESCRIPTION	RESPONSIBLE AUTHORITY	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
	ii <b>Construction</b>	RTA / Landcom / Woolworths / Council	\$7-10 million	Late 2011	0%	February 2012	<ul style="list-style-type: none"> <li>Agreement is yet to be reached on cost sharing arrangements for the Intersection, although Council has written to the Federal Government seeking funding assistance for this intersection.</li> </ul>

#	ITEM DESCRIPTION	RESPONSIBLE AUTHORITY	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
c	<b>Biodiversity Certification – Amendment to Legislation and Adoption of Methodology</b>	DECCW	N/A*	Commenced	75%	TBD	<ul style="list-style-type: none"> <li>The current biodiversity certification provisions under the Threatened Species Conservation Act 1995 do not define the term "improve or maintain biodiversity values". The legislation needed to be amended before it could be applied to WTC.</li> <li>The Threatened Species Conservation Amendment (Biodiversity Certification) Bill 2010 was introduced to Parliament on 20 May 2010, and passed through the Upper House without amendment on 8 June 2010.</li> <li>The draft Biocertification Assessment Methodology was expected to be adopted by the Director-General for Environment &amp; Climate Change in September 2010. The adoption of the methodology is the final step prior to Council making a formal Biocertification Application for Warnervale Town Centre. Unfortunately, no timeframe has been given for the adoption of the methodology.</li> </ul>
d	<b>Biodiversity Certification – Obtain funding for the purchase of offset lands.</b>	DECCW / NSW Treasury	\$4 million	Late 2010	0%	Early 2011	<ul style="list-style-type: none"> <li>The State Infrastructure Contribution (SIC) Plan – Warnervale Town Centre Special Contributions Area allows \$4 million for purchase of Biodiversity offsets by DECCW as part of the Biodiversity Certification of the Warnervale Town Centre.</li> <li>DECCW to prepare a submission to NSW Treasury to obtain funds committed for these offsets.</li> </ul>
e	<b>Private Sector Development</b>						
	i Landcom	Landcom	N/A*	Commenced	25%	Early 2012	<ul style="list-style-type: none"> <li>Landcom is preparing a Development Application for approximately a 150-lot residential subdivision. This subdivision is likely to be staged.</li> <li>DA to be determined by Council, however if the development has a capital investment value (CIV) over \$10 million, this DA will be</li> </ul>

#	ITEM DESCRIPTION	RESPONSIBLE AUTHORITY	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
c	<b>Biodiversity Certification – Amendment to Legislation and Adoption of Methodology</b>	DECCW	N/A*	Commenced	75%	TBD	<ul style="list-style-type: none"> <li>The current biodiversity certification provisions under the Threatened Species Conservation Act 1995 do not define the term "improve or maintain biodiversity values". The legislation needed to be amended before it could be applied to WTC.</li> <li>The Threatened Species Conservation Amendment (Biodiversity Certification) Bill 2010 was introduced to Parliament on 20 May 2010, and passed through the Upper House without amendment on 8 June 2010.</li> <li>The draft Biocertification Assessment Methodology was expected to be adopted by the Director-General for Environment &amp; Climate Change in September 2010. The adoption of the methodology is the final step prior to Council making a formal Biocertification Application for Warnervale Town Centre. Unfortunately, no timeframe has been given for the adoption of the methodology.</li> </ul>
							<ul style="list-style-type: none"> <li>determined by the Joint Regional Planning Panel (JRPP).</li> <li>Stormwater management and quality yet to be resolved with the consultant.</li> </ul>

#	ITEM DESCRIPTION	RESPONSIBLE AUTHORITY	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
ii	Woolworths	Woolworths	N/A*	Commenced	25%	Late 2013	<ul style="list-style-type: none"> <li>Woolworths is preparing a Part 3A Major Project Application for a retail/commercial development of between 20,000-25,000m<sup>2</sup>, as part of Stage 1 of the Woolworths development. Later stages to follow.</li> <li>A Part 3A Major Project Application has been lodged to the DoP.</li> <li>Draft Director General Requirements for Woolworths Part 3A Application have been issued by DoP. These are in the process of being reviewed by Council staff and a formal response to DoP will be made outlining any issues of concern.</li> </ul>
iii	Yeramba	Yeramba Estates	N/A*	Commenced	10%	TBD	<ul style="list-style-type: none"> <li>Yeramba Estates is preparing a Development Application for approximately a 98-lot residential subdivision.</li> <li>DA to be determined by Council.</li> </ul>
<b>f</b>	<b>North Warnervale Railway Station</b>						
i	Development Application (DA/261/2005)	Council / RailCorp	Internal Staff Resources- N/A*	Commenced	90%	Mid 2011	<ul style="list-style-type: none"> <li>A Development Application (DA/261/2005) for the North Warnervale Railway Station has been lodged with Council.</li> <li>Due to the potential impacts on the Wyong Daisy population, Council cannot approve the DA without DECCW concurrence.</li> <li>A Plan of Management (PoM) specifically regarding the Wyong Daisy Reserve is needed prior to concurrence being considered by DECCW.</li> <li>RailCorp is finalising the PoM, and updating the Statement of Environmental Effects and DA plans to reflect the current DCP and to integrate with the proposed Woolworths development and the Main Access Road.</li> <li>On 30 July 2010, Council advised RailCorp that a review of the costings provided in the draft Plan of Management had been undertaken and that Council accepts the cost estimate of</li> </ul>



#	ITEM DESCRIPTION	RESPONSIBLE AUTHORITY	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
							<p>\$514,000 with the addition of a further \$50,000 for Council project management costs.</p> <ul style="list-style-type: none"> <li>• RailCorp has not yet submitted the final Plan of Management, Statement of Environmental Effects or revised plans.</li> </ul>
	ii Construction	RailCorp / NSW Treasury	c. \$40 million*	2012	0%	2015/16	<ul style="list-style-type: none"> <li>• No funding has been set aside for this item by the State Government.</li> <li>• The State Government has released the draft Central Coast Regional Transportation Strategy for comment. The draft Strategy identifies a commencement date for the railway station of 2012 and completion of construction by 2015/16.</li> </ul>
<b>g</b>	<b>Electricity Connection / Substation</b>						
	i Design of Substation	Energy Australia	N/A*	Commenced	50%	TBD	<ul style="list-style-type: none"> <li>• Energy Australia (EA) to construct electricity substation to service additional loads – this may take 2-3 years to construct. However, interim arrangements can be made in the meantime, by drawing additional loads from existing Charmhaven and/or Wyong substations.</li> <li>• Meetings have been held with EA to determine issues to be addressed. Woolworths, Landcom, Yeramba Estates are to discuss the electricity loads required and delivery timeframes.</li> </ul>
	ii Construction of Substation	Energy Australia	c. \$20 million*	TBD	0%	TBD	<ul style="list-style-type: none"> <li>• Interim arrangements may involve drawing additional loads from existing Charmhaven and/or Wyong substations.</li> </ul>

\* State Government Agencies / Private Sector costs unknown.

## **7.7 Outstanding Questions without Notice and Notice of Motions**

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TRIM REFERENCE: F2011/00027 - D02457115  
AUTHOR: Jacquie Elvidge; Administration Assistant  
MANAGER: Lesley Crawley; Manager Corporate Governance

### **SUMMARY**

Report on outstanding Questions Without Notice and Notices of Motion.

### **RECOMMENDATION**

*That Council receive the report on Outstanding Questions without Notice and Notice of Motions.*

### **ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Table of Outstanding Questions without notice & Notices of Motion - 9 February 2011 | D02483717 |
|---|---|-----------|

No	Department	Question Asked / Councillor	Meeting Asked	Status
1	Environment and Planning Services	326 - National Natural Disaster Funding <i>That a further report be brought back to Council on information on predication on climate change impacts as a result of studies being undertaken by consultants in conjunction with the Coastal Hazard Study.</i>	8 August 2007 Cr Eaton / Cr Best	The information addressing this issue has been incorporated within the Coastline Management Plan in the section relating to Funding Options. A draft Coastline Management Plan has been prepared and will be reported to Council in the fourth quarter 2010/2011.
2	Environment and Planning Services	298 - The Long Jetty Commercial Options Initiative 1 <i>That Council receive a briefing as part of the Long Jetty master planning that will occur following the potential adoption The Entrance Long Jetty Strategy on the permissibility and benefits / disbenefits of considering sub leasing (subject to Departmental approval) an area of the Long Jetty to cater for a commercial operation such as a cafe with possible education aspects.</i> 2 <i>That any economical benefit derived from this activity be allocated to the maintenance and upkeep of the Long Jetty.</i>	25 June 2008 Cr Best / Cr Eaton	The Entrance Peninsula Planning Strategy identified the requirement to prepare a Masterplan for the Long Jetty area. This project will address the matters raised in Council's resolution. The Master plan project is expected to commence in 2011/2012 subject to funding availability.
3	Environment and Planning Services	8.2 - Notice of Motion – Possibility for the Establishment of an Environmental Committee <i>That the Shire Planning Department provide a report that outlines the possibilities for establishment of an Environment Committee. The report should include, but not be limited to:</i> <ul style="list-style-type: none"> <li>• <i>The Terms of Reference (charter, roles, responsibilities and function);</i></li> <li>• <i>Possible membership</i></li> <li>• <i>Whether it should be a committee or Council; and report on environment committees that have been established in other Council areas, their roles, functions and achievements</i></li> </ul>	9 September 2009 Cr Wynn / Cr Best	A further briefing will be held in March 2011 after which a report will be submitted to Council.

No	Department	Question Asked / Councillor	Meeting Asked	Status
4	Environment and Planning Services	<p>8.4 - Notice of Motion – Proposed Additional Development Policy</p> <ol style="list-style-type: none"> <li>1 That taking into account the unsightly appearance of a number of unfinished and empty buildings throughout the Shire, that staff develop a policy that can be integrated into the relevant chapters of Development Control Plan 2005.</li> <li>2 That the draft policy be written to apply to major residential, commercial and industrial development.</li> <li>3 That the provisions of the policy include: <ol style="list-style-type: none"> <li>a objectives relating to ensuring visual amenity is maintained should buildings remain unfinished or empty;</li> <li>b requirements for ensuring visual amenity by way of hoardings, landscape buffers, painting and / or other means of screening; and</li> <li>c a focus on buildings located within town centres and on major roads within the Shire.</li> </ol> </li> <li>4 That the draft policy be reported back to Council for consideration</li> </ol>	11 November 2009 Cr Best / Cr Webster	Draft policy to be reported to Council in March 2011.
5	Environment and Planning Services	<p>5.1 - Notice of Motion – Planning Disputes Mediation Process Trial</p> <ol style="list-style-type: none"> <li>1 That Council recognise in principle that the establishment of a Mediation process may reduce litigation and expedite dispute resolution in appropriate cases.</li> <li>2 Report required on the establishment of a Mediation process/planning disputes.</li> </ol>	10 February 2010 Cr Eaton / Cr Graham	Report being prepared for a Council meeting in March 2011
6	Environment and Planning Services	<p>9.5 - Notice of Motion – Sea Level Rise Notification</p> <ol style="list-style-type: none"> <li>1 That Council write to all property owners affected by the State Governments sea level rise policies (ie 40 cm by 2050 and 90 cm by 2100).</li> <li>2 That the text of the letter be <u>endorsed</u> by Council</li> </ol>	24 February 2010 Cr Eaton / Cr Graham	Affected properties identified. Report to Council to be provided for a meeting in April 2011.

No	Department	Question Asked / Councillor	Meeting Asked	Status
7	Corporate Services	<p>8.4 - Notice of Motion – Public Access to Coast via Tuggerah Lakes Golf Course</p> <p>1 That Council <u>note</u> the closure of the long-established public access to the coast through the golf course at the northern end of the course resulting from the locking, by the Club, of the gate at this location.</p> <p>2 That Council request the General Manager to provide a detailed report on the arrangement between the Tuggerah Lakes Golf Club and the Shelly Beach Recreation and Flora (R73287) Reserve Trust.</p> <p>3 That Council seek legal advice, through a report from staff, on the issues affecting the public's right of access to the Tuggerah Lakes Golf Course including, but not exclusively so:-</p> <ul style="list-style-type: none"> <li>a What rights, are accorded to the general public.</li> <li>b Council's ability, or otherwise, to enforce the public's right of access.</li> <li>c Establishing what is a reasonable and lawful interpretation of "proper purpose".</li> <li>d Council's liabilities in terms of the safety issues and in terms of protecting the assets.</li> <li>e Council's obligations to ensure the Club protects the public appropriately from the risks of access.</li> <li>f What rights, if any, are accorded to the adjacent neighbours</li> <li>g The relevance and quality of the existing lease as an appropriate commercial arrangement.</li> </ul> <p>4 That Council formally advise the Tuggerah Lakes Golf Club that it does not support the recent closure of the gate at the northern end of the course and <u>request</u> the Club to reopen the gate.</p>	14 April 2010 Cr Eaton / Cr Best	Currently seeking further legal clarification following meetings with stakeholders.

No	Department	Question Asked / Councillor	Meeting Asked	Status
8	Community and Recreation Services	<p>7.2 - Notice of Motion – Shared Pathway (matching funds for Pathways and Various Council Facilities)</p> <p>1 That Wyong Shire Council <u>build partnerships with community in building and extending the network of shared pathways throughout the Shire identified in the Draft On-Road Bicycle and Shared Pathway Strategy policy document and community assets consistent with the objectives of the Shire Strategic Vision, including but not limited to halls, community gardens, sporting facilities etc through community fund raising. Funds raised by the community to be matched by Council on a ratio of 1:2. Community must raise a threshold amount of \$10,000 before work on a section would be placed into the forward rolling works program. These projects would be over and above the existing planned works. There would be a limit of \$300,000 per annum dedicated to the scheme by Council.</u></p> <p>2 That Council <u>consider the inclusion of this scheme in the 2011 – 2012 Management Plan or during the Quarterly Review if the opportunity arises.</u></p> <p>3 That Council <u>advertise the Scheme widely multiple times throughout the year.</u></p> <p>4 That Council staff <u>develop a set of guidelines for consideration of these projects and submit to Council for adoption.</u></p>	12 May 2010 Cr Wynn / Cr Vincent	Consultation will occur and be completed by end February 2011 and a report to Council in March 2011.
9	Major Projects	<p>7.6 - Notice of Motion – Warnervale Town Centre Viability</p> <p><u>That Council staff report on the viability of developing the 1,100 units proposed for Warnervale Town Centre and possible variation of proposed densities to ensure viable town centre development.</u></p>	12 May 2010 Cr Eaton / Cr Best	Council has made representations to the Department of Planning (DoP) recommending amendments to the Development Control Plan (DCP) and State Environmental Planning Policy (SEPP) which will impact on the results of this assessment. Therefore, this assessment has been delayed.
10	Environment and Planning Services	<p>8.1 - Notice of Motion – Clause 14 Fund Improving Conservation Outcomes</p> <p><u>That staff investigate and report back to Council on the best use of the Clause 14 (3) (b), funds for improving conservation outcomes.</u></p>	14 July 2010 Cr Wynn / Eaton	Report will be presented to Council subject to confirmation of a briefing date.

No	Department	Question Asked / Councillor	Meeting Asked	Status
11	Community and Recreation Services	<p>10.2 – Notice of Motion – San Remo Xtreme Sports Park</p> <ol style="list-style-type: none"> <li>1 That Council <u>consult</u> with the community and potential stakeholders to develop a sustainable management mode of operation for the San Remo Disability Friendly Xtreme Sport Park to determine the model for ongoing activation of this valuable community asset.</li> <li>2 That Council, following initial community consultation, <u>conduct</u> an on-site meeting to understand the potential for the site.</li> <li>3 That Council <u>consider</u> a report on the outcome of the above, including the financial and recourse implications to Council.</li> </ol>	25 August 2010 Cr McBride / Wynn	Discussions with stakeholders have been held during January 2011. These include Delta, San Remo Neighbourhood Centre, Links and YMCA. Briefing to the new Manager, Sport Leisure & Recreation as well as research into existing facilities and documentation is being undertaken prior to being able to report back to Council. It is anticipated that the report to Council will be submitted in April 2011.
12	Infrastructure Management	<p>8.1 Notice of Motion - Fluorescent Light Globes and Batteries Recycling</p> <ol style="list-style-type: none"> <li>1 That Wyong Shire Council <u>introduce</u> a fluorescent light globe and battery recycling program for a 1 year trial after which time a report is to come back to Council outlining the success or otherwise of the program and its cost.</li> <li>2 That Wyong Shire Council <u>enable</u> this recycling to occur by providing suitable collection sites</li> </ol>	8 September 2010 Cr Wynn/ Vincent	<p>The project is part of the Waste and Sustainability Improvement Payment (WaSIP) program. Implementation of this collection service is planned to commence during February 2011. It is part of a larger high-risk waste collection and recycling project that will also include electronic waste.</p> <p>A report will be submitted to Council once the feasibility of this program has been investigated</p>

No	Department	Question Asked / Councillor	Meeting Asked	Status
13	Infrastructure Management	<p>10.1 Notice of Motion - Efficiencies and Power Pricing Options</p> <ol style="list-style-type: none"> <li>1 That Council <u>note</u> with great concerns the alarming escalation of electricity pricing and the financial impact it is placing on our residents and ratepayers.</li> <li>2 Further that Council, as a matter of urgency, <u>seek</u> a formal briefing from the local peak energy provider Energy Australia regarding the recent alarming price hikes and as to what effective energy efficiency options are available to reduce usage and price.</li> <li>3 That Council, as an advocate on behalf of our residents and rate payers, seek to <u>establish</u> an independent investigation into the conduct of the energy industry and agencies that has resulted in the recent massive price hikes.</li> <li>4 That staff <u>report</u> to Council on options, initiatives and recommendations arising from the above to assist our residents and rate payers in dealing with this challenging situation.</li> <li>5 That staff <u>report</u> to Council on the affect on energy bills of installation of smart meters.</li> </ol>	13 October 2010 Cr Best/Wynn	Letters written to the Minister for Energy re Items 1 and 3 and to Energy Australia seeking a meeting re items 2, 4 and 5. No replies have yet been received. Reports to Council will follow after replies are received and requested meetings have been held.
14	Community and Recreation Services	<p>8.2 - Notice of Motion – Acknowledgement of the Darkinjung People</p> <p>That Council <u>defer</u> this item to allow time to further consider this <u>matter</u> and receive further information.</p>	27 October 2010	Requested meeting with Director to discuss further.



No	Department	Question Asked / Councillor	Meeting Asked	Status
15	Environment and Planning Services	<p>2.1 - Mayoral Minute – Local Job Creation – the Shire of the Third Age</p> <p><i>That Council adopt a strategic target of creating 5,000 local jobs over 10 years by creating Wyong Shire as a nationally recognised district of excellence in aged housing. The following strategies would be involved in reaching this target:</i></p> <ul style="list-style-type: none"> <li>a <i>Establish a register of sites appropriate for development of aged housing and facilities based on appropriate parameters including size and location.</i></li> <li>b <i>Increasing flexibility in the new Local Environmental Plan to encourage aged housing for example consider allowing aged housing and associated medical facilities in the Wyong Employment Zone.</i></li> <li>c <i>Amend dual occupancy DCP to encourage the redevelopment of single cottages more than 30 years old in existing urban areas. Recognising that dual occupancy development is generally suitable for aged housing and replacing old housing with new housing increases energy and resource and Environmental efficiency.</i></li> <li>d <i>In conjunction with the public and private sector identify and market the advantages of Wyong Shire for aged housing.</i></li> <li>e <i>Reviewing Council owned sites for possible aged housing including the Warnervale Country Music site.</i></li> <li>f <i>Work with local registered clubs to encourage their participation in this sector and identify and ameliorate barriers to entry.</i></li> <li>g <i>Call for expressions of interest to form an expert panel to advise Council on this initiative.</i></li> </ul>	10 November 2010	Landuse Planning and Policy are working with Major Projects Section to develop a project outline. Resolutions (b) and (c) to be implemented as part of the Comprehensive LEP and DCP 2011 process.
16	Corporate Services	<p>9.1 - Notice of Motion – Women's Committee</p> <ol style="list-style-type: none"> <li>1 <i>That Council include consideration of a Status of Women Committee during their deliberations on the whole committee structure.</i></li> <li>2 <i>That Council consider participation / membership to include Councillors, staff and community representatives to support women's issues within the Local Government are.</i></li> </ol>	10 November 2010	Briefing to Councillors on 8 December 2010 as part of Councillors Committee Structure. Report likely to be submitted in March 2011.

No	Department	Question Asked / Councillor	Meeting Asked	Status
17	Environment and Planning Services	<p>9.2 - Notice of Motion – Lot 1 DP 450166 Main Road, Toukley</p> <p>1 That further to Council's consideration of this matter on 11 June 2008 and staff reply (reports attached), Council <u>reiterate</u> on behalf of its residents and ratepayers its serious concern regarding the unsightly and potentially unsafe condition of the partially built structure locally know as the Toukley Taj Mahal on Lot 1 DP 450166, Main Road, Toukley at the bridge.</p> <p>2 That acknowledging the substantial period of time that has lapsed since any work has taken place on the property and noting that a Notice of Intent has been issued requiring the completion of the development:</p> <ol style="list-style-type: none"> <li>Council <u>proceed</u> to issue a formal Order for completion.</li> <li>Council's legal counsel <u>investigate any other avenues</u> to achieve completion.</li> <li>Should the owners not comply with the terms of the Order upon its expiry, Council commence legal action in the Land and Environment Court.</li> </ol>	10 November 2010	An order was issued on 18 January 2011.
18	Infrastructure Management	<p>11.2 – Notice of Motion – Drains along Long Jetty Foreshore</p> <ol style="list-style-type: none"> <li>That Council <u>research</u> the potential to develop a program similar to "Adopt a Road" to be applied to specific stormwater drains within the Shire.</li> <li>That Council refer the issue to the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee for consideration, should such a program be feasible from an environmental, social and financial perspective.</li> <li>That Council express its thanks to Messrs Darlington, Bond and Bevege for their initiative in suggesting the scheme.</li> </ol>	24 November 2010 Cr Graham / Cr Webster	<p>Council to investigate the environmental, social, governance &amp; economic potential for a program to provide maintenance responsibility for specific stormwater drains within the Shire. Investigations are to be made available for the February meeting of the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee for consideration.</p> <p>A thank you letter sent to Messrs Darlington, Bond and Bevege.</p>

No	Department	Question Asked / Councillor	Meeting Asked	Status
19	Corporate Services	<p>11.3 – Notice of Motion – Council calls to Support Local Nurses</p> <p>1 <i>That Council in an advocacy role support the Central Coast nursing association's call for a safer and more appropriate nurse to patient ratio in our local hospitals.</i></p> <p>2 <i>That Council formally make representation on behalf of our local nurses to the State health minister &amp; all local members.</i></p> <p>3 <i>That Council establish a prominent link to Nurse's website on Council's homepage.</i></p> <p>4 <i>That Council recognise the outstanding contributions made by our local health professionals.</i></p>	24 November 2010 Cr Best / Cr McNamara	Correspondence sent to State health minister and local members. Communications section developing a link on Council's website homepage.
20	Corporate Services	Q112/10 - Vandalism Cost to Ratepayers	8 December 2010 Cr Best	Response to be provided to 23 February 2011 meeting.
21	Environment and Planning Services	Q113/10 - Policing Resources	8 December 2010 Cr Best	Response to be provided for a meeting in April 2011.

### Questions Without Notice and Notices of Motion Removed from the Above Lists since the Previous Meeting

Question without Notice / Notice of Motion	Date Asked/ Councillor	Outcome
5.2 - Notice of Motion – Elected Council Independent Legal Advisor (including request for quarterly reports on expenditure and information on general details of the matters on which legal advice has been sought)	10 February 2010 Cr Eaton / Cr Graham	The first quarterly report was submitted as an item for consideration at the Confidential Session of the Ordinary meeting on 24 November 2010.

Question without Notice / Notice of Motion	Date Asked/ Councillor	Outcome
<p><b>9.3 - Notice of Motion – Central Coast Tourism Annual Funding</b></p> <p>1 That Council <u>congratulate</u> Central Coast Tourism Inc (CCTI) on the restructuring, rebranding and improved servicing of the important local tourism industry.</p> <p>2 That Council in recognition of such improvement <u>review</u> CCTI core operational funding.</p> <p>3 That Council <u>receive</u> a briefing on 23 June 2010 with CCTI to discuss operational issues with a report to 23 June 2010 meeting documenting service improvements identifying how operational funding from Council should be improved to around \$150,000 (excl GST) per annum.</p>	<p>26 May 2010 Cr Webster / Cr Graham</p>	<p>Memorandum of Understanding has been signed.</p>
<p><b>1.1 – Notice of Motion – Old Sailing Club Building at Tuggerah Parade, Long Jetty</b></p> <p>1 That Council <u>write</u> to the Land and Property Management Authority and to the Minister for Lands the Hon Tony Kelly MLC seeking their immediate attention to the state of disrepair of their property at Tuggerah Parade Long Jetty.</p> <p>2 That Council staff <u>seek</u> agreement of the LPMA to reimbursement of Council costs in undertaking rapid graffiti removal on the facility on an ongoing basis.</p> <p>3 That Council <u>thank</u> The Entrance Precinct Committee for its ongoing advocacy in the rectification of graffiti in the local area.</p>	<p>24 November 2010 Cr Graham / Cr Webster</p>	<p>Letters issued to Land and Property Management Authority, Minister for Land and Precinct Committees.</p>

Question without Notice / Notice of Motion	Date Asked/ Councillor	Outcome
<p><b>8.1 - Notice of Motion - Lake Audit on Power Station Effects</b></p> <ol style="list-style-type: none"> <li>1 That Council <u>request</u> the NSW State Government conduct a comprehensive audit of the power industry's environmental impact on Lake Macquarie, Lake Munmorah and Lake Budgewoi.</li> <li>2 That Council request the State Government ensure the audit identified any consequent health risks to the residents in the surrounding locale.</li> <li>3 That Council recommend the audit be funded from the dividend extracted from the industry by the NSW Government.</li> </ol>	<p>27 October 2010 Cr Wynn / Cr Best</p>	<p>Letter issued to the State Energy Minister, the Hon Paul Lynch.</p>
<p><b>U22/10 Motion of Urgency - Central Coast Region Accessing the Regional Infrastructure Fund</b></p> <ol style="list-style-type: none"> <li>1 That Council <u>liaise</u> with the Federal Minister for Regional Development with a view to the Federal Government recognising the Central Coast as a region and accessing the new \$9.9 billion Regional Infrastructure Fund.</li> <li>2 That Council <u>approach</u> all Local Federal Members to support this approach.</li> <li>3 That Gosford City Council be copied in on this motion and <u>requested</u> to pass a complementary resolution with the view to making a joint regional submission.</li> </ol>	<p>8 September 2010 Cr Eaton/Best</p>	<p>Completed.</p>
<p><b>Q109/10 - Regional Hospital Cutbacks</b></p> <p>"It has been reported in the media that the Federal Government has redirected hospital funding into the regions, reportedly resulting in substantial cutbacks to our regional hospital at Gosford. As the Central Coast is a region and that the Federal Government funding adjustment was indicated to favour the regions how is it that this region appears to have suffered a health funding cutback?"</p>	<p>13 October 2010 Cr Best</p>	<p>Letter issued to the Minister for Health, the Hon Nicola Roxon MP, any response received will be submitted to Council.</p>

Question without Notice / Notice of Motion	Date Asked/ Councillor	Outcome
<p><b>Q111/10 – Customer Service</b>  <i>“Mr General Manager,  Further to my QWN 14 July 2010 regarding the efforts of our customer service section, I note in recent media reports Wyong Shire Council has achieved an outstanding result being ranked first out of 39 Councils in Australia in regard to customer service delivery. This is an outstanding on-going achievement and again I would like to take this opportunity to request that you formally thank on behalf of Council the front-line staff and indeed their Management Team for this tremendous outcome.”</i></p>	<p>24 November 2010  Cr Best</p>	<p>The General Manager has thanked the staff involved on their achievement.</p>

9 February 2011

To the Ordinary Meeting

Councillor

## **8.1 Notice of Motion - Access to Schools**

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TRIM REFERENCE: F2004/06686 - D02427478

AUTHOR: Lisa Matthews, Councillor

Councillors Matthews and Vincent have given notice that at the Ordinary Meeting to be held on 9 February 2011 they will move the following Motion:

*“That staff prepare a report on access in and around all schools within the Local Government area including but not limited to safety, parking and disability access.”*

### **GENERAL MANAGER’S NOTE**

#### **Background**

Over recent years there have been a number of problems around schools considered by the Local Traffic Committee. These have mostly involved parents picking up their children in the afternoon. The problems have included traffic congestion, traffic queues interfering with other traffic movements, insufficient parking, illegal double parking and inadequate parking for disabled students.

It is understood that the Councillor's request is for an audit of all schools in Wyong Shire to identify and quantify the problems identified above. There are approximately 50 schools in Wyong Shire that will need to be surveyed. Approximately 80% of the schools are government establishments. The project would include researching of accident history.

A Councillor Business Update was distributed to Councillors on 31 May 2010, identifying some of the above issues and the measures Council's Road Safety Office was implementing to educate parents on road safety. It is likely that the education programme may have had an influence in changing some parent's attitude, although there are still many traffic and safety problems at a lot of schools.

#### **General**

In order to identify and quantify the extent of traffic congestion, parking and other safety issues, the following work will be required:

- Surveys:
  - Identify parking availability, on-site and on adjoining roads
  - Identify parking demands, on-site and on adjoining roads
- Contact the local schools to determine the demand for disabled parking.
- Observation surveys to determine the location and extent of the traffic queues and congestion.

## **8.1 Notice of Motion - Access to Schools (contd)**

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- Identify pedestrian desire lines to the schools and any pedestrian safety concerns.
- Obtaining and assessing accident history in the vicinity of the school.

At schools with multiple road frontages, it will be necessary to carry out surveys in several streets.

### **Cost and Timing**

If only on a single day afternoon surveys are carried out, the surveys and research is likely to take one person approximately 6 months (full time). Another option is to engage consultants. Their fees are likely to be in the order of \$70,000 to \$90,000.

The timing of any report on the surveys is dependent on who carries out the surveys. If the surveys are carried out by Council staff, and subject to existing resources being available, a report may be available before the end of 2011. This timing is subject to there being no changes to Council staffing or additional projects assigned to the Transport Planning Unit during this period.

If Council engages consultants to do these surveys, then a report may be available by September 2011. As stated previously, the cost for the consultancy is likely to be in the order of \$70,000 to \$90,000. There are no funds available in the 2010/11 budget for the engagement of consultants.

### **CONCLUSION**

As a safety around government schools should be the responsibility of the State Government, it is suggested that council approach the State Government for funding to carry out the survey, rather than allocate its own limited staff resources.

Once the results have been correlated, and a report prepared identifying pedestrian and vehicular safety issues, traffic congestion, parking, and parent pick-up shortfalls. Council should approach the State Government to rectify the deficiencies identified.



9 February 2011

To the Ordinary Meeting

Councillor

## **8.2 Notice of Motion - Graffiti Outrage**

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TRIM REFERENCE: F2004/07937 - D02460091

AUTHOR: Greg Best; Councillor

Councillor G P Best has given notice that at the Ordinary Meeting to be held on 9 February 2011 he will move the following Motion:

- "1 That Council recognises the significant efforts to date by staff and the business community in their endeavours to curb and repair escalating graffiti and malicious damage costing this Shire millions as a result of anti-social behaviour.*
- 2 That whilst the efforts to educate and curb this behaviour are to be applauded, Council concludes that further and fresh initiatives need to be considered in response to the rampant escalation of this vandalous behaviour.*
- 3 That Council urgently make representation to our respective State Members highlighting this Community's utter frustration at the lack of legislative support provided by the State to assist law enforcement and the judiciary in curbing the alarming escalation.*
- 4 That it is with this understanding that Council endeavour to take a whole of community approach to this social assault through formally tabling an appropriate resolution in partnership with staff, at the upcoming Local Government and Shires Association Annual Conference with a view to gaining state wide support for a fresh approach."*

### **COUNCILLOR'S NOTE**

Such is the escalation that vehicles are being tagged nightly by graffiti vandals. This \$40,000 vehicle was attacked with six others on one evening.



9 February 2011

To the Ordinary Meeting

Councillor

### **8.3 Notice of Motion - Myrtle Rust Epidemic**

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TRIM REFERENCE: F2010/01441 - D02502181

AUTHOR: Greg Best; Councillor

Councillor G P Best has given notice that at the Ordinary Meeting to be held on 9 February 2011 he will move the following Motion:

*“That staff as a matter of urgency report to Council and the Community on what steps have been taken to date and that are proposed in this Council’s endeavours to combat the pending epidemic of Myrtle Rust, a fungal disease from South Africa that was detected on the Central Coast in April 2010, that could result in devastating our local flora and associated industries and their supporting employment.”*

#### **COUNCILLORS NOTE**

Below for Councillors and Staff’s background is a paper tabled by long-standing Community Environmentalist Deidrie Jinks on the Myrtle Rust and the pending epidemic:

#### **Myrtle Rust**

Myrtle Rust has now escaped out into the bush, all along the east coast. There exists the real possibility of an ecological holocaust. The rust particularly attacks new growth, and kills seedlings. As the existing gum trees, lillypilly and other Myrtaceae die, there may be no regeneration. The disease could spread across the whole continent. We might be the last generation of Australians to see a landscape with gum trees, bottlebrushes, paperbarks, lillypilly and turpentine (amongst others). We have to hope that there remains sufficient genetic diversity within our natural populations to produce rust resistant forms. Even so, there could be a cascade of extinctions of the birds and other animals dependent upon myrtaceae for food or shelter.

Small local businesses in Gosford and Wyong Shire have been hit very hard. Cut flower growers have left their crops (of flowering gums, etc) unharvested. Bush regenerators found themselves with no work as bushland areas were closed before Christmas. Local propagators were unable to sell their spring production, future sales will depend upon use of noxious poisons, whether the nursery is infected or not. Local propagators growing the local flora have been most particularly affected, especially those using chemical free production methods. Use of toxic chemicals can destroy a property’s organic status for a lifetime, obviously propagators are loathe to use them. Exports of plant material, have been banned for many destinations, whilst wood-chip export from infected forests continues.

Myrtle Rust is a fungal disease from South American that infects Myrtaceae – about 10% of the Australian flora is Myrtaceae including ecologically significant groups such as Eucalyptus, Callistemon, Paperbarks, and Lillypilly. (10% of the flora – more than 50% of the actual trees). It has recently arrived in Australia, first detected on the Central Coast in April 2010. Severe infection may cause death of new growth and seedlings, distortion of plant habit, and sometimes death of the plant. The fruits of soft-fruited species are also prone to infection.

Myrtle Rust is very closely related to (and may prove to be simply a variant of) another South American pathogen, Eucalypt or Guava Rust. The Australasian Plant Pathology Society, in a media release of May 2010, stated that “there is a real concern that the disease caused by *Uredo rangelii* (myrtle rust) will not be significantly different to that caused by *Puccinia psidii* (guava rust)”. It has been assessed (Plant Health Australia 2008, 2009) as having a high potential for entry to Australia, a high establishment potential, a high-to-extreme spread potential, a high environmental impact, and a high-to-extreme economic impact. It is regarded by the Commonwealth Primary Industries Ministerial Council as “one of the most serious threats to Australian production forests and natural ecosystems” (Commonwealth of Australia 2006). It has a potential to cause direct mortality in the estimated 10% of all Australian native forest plant species (and the great majority of dominant species) that belong to the family Myrtaceae, and with indirect effects that may include habitat loss for native fauna and flora, reduced regeneration and recruitment of young plants, greater impact of fire, and canopy leading to erosion, reduced water quality, reduced water retention in soil and vegetation, and potentially large losses to the forestry industry. In NSW, a Preliminary Determination has been made for ‘Introduction and establishment of Exotic Rust Fungi of the order Uredinales pathogenic on plants of the family Myrtaceae’ as a Key Threatening Process under the NSW *Threatened Species Conservation Act 1995* (NSW Scientific Committee 2010). Climate mapping indicates that guava rust could establish in a large proportion of Australia’s World Heritage Rainforest.

Fungal spores are readily dispersed by wind, by movement on infected plant material, as contaminants in pollen, by movement of vehicles and equipment, and on clothing and personal effects of people. Toxic chemicals can control the rust in nurseries and gardens but there are no likely control options for wild areas, other than prevention of arrival, or detection and eradication at a very early stage of arrival.

The NSW Department responsible for dealing with this emergency has failed dismally. Having dismantled the Agricultural Research Station at Narara, there was no scientific expertise to call upon so the emergency was handled by Industry and Investment bureaucrats. The first rust infection was identified in April 2010, but an emergency response team was quickly stood down, without forming a Scientific Advisory Panel to give technical advice, as required by Commonwealth *Threat Specific Contingency Plans* which have been prepared for such a disease emergency. Although the disease outbreak was restricted to a handful of sites, no attempt was made at total eradication. Quarantine was declared for plant material movement from within Gosford and Wyong Shire.

Local communities have endured quarantines for Newcastle Disease and for Equine influenza. The Myrtle rust quarantine is different, it has been kept ‘secret’, there have been no notices or roadblocks, it applies only to local myrtaceae producers. Retail nursery outlets have been little affected, nor were the industrial producers who drenched their plants with poisons, and sent semi-trailer loads of cloned lillypilly (for example) to the Sydney marketplace. In August the Spring Flora Festival was allowed to proceed unhindered, with truckloads of plants moving into the quarantine area, then out of the quarantine area again to thousands of destinations. As a stallholder who was there constantly for five days, I saw no quarantine information or agency representation. Myrtle rust was found along recently slashed fire-trails in Wambina (Matcham) but no attempt was made to trace and decontaminate the slashing equipment. The disease has since spread in the wake of slashing and mulching operations, along roadsides and under power-lines. It is now rampant in the surrounding State Forests, spread by lack of hygiene protocols for forestry equipment, and unrestrained recreational activity over the summer holidays.

Meanwhile, quarantine is still in place for Gosford and Wyong myrtacea growers. Ourimbah Community Inc has asked me to prepare this summary. Ourimbah Precinct Committee will discuss this issue at their February meeting.

We understand that Wyong Council received notification of Myrtle rust from Dept of Industry & Investment only in December 2010, and is currently organising a response. We encourage the Council to engage with this problem and offer the following suggestions:

Council could send someone to the stakeholders meeting in Sydney next Friday – 28<sup>th</sup> Feb.

Organise a council-wide strategy to deal with this – it could get very bad. It needn't. Perhaps the strategy could encompass:

- General bio-security measures – review work flows and attend to hygiene between work sites.
- People, as well as machines, are spreading the disease.
- Hygiene must be as ingrained as we expect a nurses' hand-washing behaviour to be.
- Every council worker needs to know what the local Myrtaceae are (perhaps a local booklet).
- Every council worker needs to know what myrtle rust looks like and how to respond to it.
- Council should support review their landscape policy to support local ecosystems. They should support efforts of local growers to propagate rust resistant forms. (that is, they should plant genetically diverse local myrtaceae, instead of buying the cheapest clones from out of the area).
- Establish decontamination procedures and facilities for all earthworking machinery, and specify when decontamination is required.

**Web References:**

[http://www.anbg.gov.au/anpc/resources/Myrtle\\_Rust.html](http://www.anbg.gov.au/anpc/resources/Myrtle_Rust.html)

<http://www.daff.gov.au/aqis/quarantine/pests-diseases/myrtle-rust/myrtle-rust-qa>

<http://www.australasianplantpathologysociety.org.au/>

<http://www.dpi.nsw.gov.au/biosecurity/plant/myrtle-rust>