



Council's new \$6m Woongarra Sports Fields are a welcome addition to the residents of Woongarra and the greater Warnervale region. The local community recently celebrated the opening of the Council designed and constructed facility which caters for regional football, rugby, soccer, cricket, netball and basketball.

Business Paper

ORDINARY MEETING

14 July 2010



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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 14 JULY 2010 at **5.00 pm**,
for the transaction of the business listed below:

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

RECEIPT OF APOLOGIES

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

Michael Whittaker
GENERAL MANAGER

1.1 Disclosure of Interest

TRIM REFERENCE: F2010/00009 - D02271173

AUTHOR: ED

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

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

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

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

RECOMMENDATION

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

1.2 Inspections - 7 July 2010

TRIM REFERENCE: F2010/00009 - D02271176

AUTHOR: ED

SUMMARY

Inspections held on 7 July 2010 are listed as follows:

Date of Inspection	Location	Requested By
7 July 2010	DA 93/2010 -1B Cooranga Road, Wyongah (Single Storey Dwelling)	Director, Shire Planning
7 July 2010	DA/66/2010 – 26 Stewart Street, The Entrance (Proposed two story dwelling and demolition of existing structures)	Director, Shire Planning
7 July 2010	The Entrance Town Centre Tiles	Director, Shire Services
7 July 2010	DA 44/2010 - Lot 148 and 346 in DP 755227 Dog Trap Road, Ourimbah (Boundary Adjustment)	Director, Shire Planning

RECOMMENDATION

That Council receive the report on Inspections - 7 July 2010.

1.3 Address By Invited Speakers

TRIM REFERENCE: F2010/00009 - D02271181

AUTHOR: ED

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.

14 July 2010
To the Ordinary Meeting

Procedural Item
Corporate Services Department

1.4 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2010/00009 - D02271187

AUTHOR: ED

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 23 June 2010.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 23 June 2010.

ATTACHMENTS

1 Minutes - Ordinary Meeting - 23 June 2010 D02272412

WYONG SHIRE COUNCIL**MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 23 June 2010
COMMENCING AT 5:00:00 PM**

PRESENT

Councillors R L Graham (Chairperson), G P Best, D J Eaton, 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 Shire Planning, Director Shire Services, Director Corporate Services, Manager Development Assessment, Acting Manager Future Planning, and Project Director Mardi to Mangrove Project.

Manager Planning – Legal and Policy, Executive Manager Shire Services, Manager Customer and Community Services, Manager Contracts and Special Projects, Landscape Architect – Future Planning and two administration staff.

The Mayor advised that on Tuesday the General Manager attended a meeting of the Wyong Chamber of Commerce as a guest speaker and invited him to give Council an update.

The General Manager reported that both he and Councillor McBride attended the meeting which was well attended by over one hundred people. He was impressed by the level of enthusiasm shown by the business community. The Chamber views Wyong Shire Council as a business partner and is looking to have a better and more transparent relationship with Council to overcome a misleading public perception that it is wrong for someone from the business community to talk to Councillors. In reality Councils in regional areas and the business community need to form alliances and work in partnership in order to get the best possible outcome to compete against other metropolitan areas such as Sydney. Efforts should be made to improve relationships and change perceptions via the media to inform the public and take Wyong Shire forward.

Councillor Emma McBride, in her capacity as the Wyong Council representative on the Wyong Chamber of Commerce, thanked the General Manager for the presentation he gave.

The Mayor, Councillor Graham, declared the meeting open at 5.04 pm and advised in accordance with the Code Of Meeting Practice that the meeting is being recorded.

Mr John Hardwick read an acknowledgment of country statement and delivered the opening prayer.

APOLOGIES

There were no apologies.

1.1 Disclosure of Interest

2.3 A Van Stappen Pty Limited – V – Wyong Shire Council Deed of Settlement and Release

Councillor Eaton declared a pecuniary interest in the matter for the reason that he is the solicitor for the plaintiff, left the meeting at 5.53 pm, took no part in voting and returned to the meeting at 6.05 pm.

2.4 DA 1396/2009 – Proposed Health Services Facility at Woongarra

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he is a member of the Joint Regional Planning Panel which is determining the application, vacated his chair at 6.05 pm, took a seat in the public gallery during consideration of this matter and returned to his chair at 6.28 pm after voting was completed.

2.4 DA 1396/2009 – Proposed Health Services Facility at Woongarra

Councillor Symington declared a non-pecuniary significant conflict of interest in the matter for the reason that he is a member of the Joint Regional Planning Panel which is determining the application, vacated his chair at 6.05 pm, took a seat in the public gallery during consideration of this matter and returned to his chair at 6.28 pm after voting was completed.

4.1 Contract Variations and Finalisation – May 2010

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that with regard to Contract No 158914 he is the Chair of WYCRA that has a management agreement with YMCA for bingo and had one with LeisureCo, left the meeting at 7.38 pm, took no part in voting and returned to the meeting at 7.39 pm.

5.4 Proposed Councillors Community Improvement Grants

Councillor Wynn declared a non-pecuniary insignificant conflict of interest in the matter for the reason that her husband is a member of the Masters Cricket Team for Doyalson Wyee Cricket Club which is an applicant and in respect of the application from Tracey Maguire in conjunction with San Remo Neighbourhood Centre, the events will be held in her community of Mannering Park.

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 EATON and seconded by Councillor WEBSTER:

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 Proposed Inspections

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

That Council receive the report on Proposed Inspections.

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

AGAINST: NIL

1.3 Address By Invited Speakers

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

That Council receive the report on Invited Speakers.

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

AGAINST: NIL

1.4 Confirmation of Minutes of Previous Meeting

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

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 9 June 2010.

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

AGAINST: NIL

Business Arising

There was no business arising.

2.1 Adoption of Annual Plan 2010-11

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

- 1 That Council receive the submissions concerning the Draft 2010-11 Annual Plan.**
- 2 That Council adopt the Draft 2010-11 Annual Plan and the estimates of income and expenditure inclusive of changes as detailed in this report.**
- 3 That Council set the rate and charge rebates to pensioners for the year 2010-11 in accordance with relevant legislation and Council policy.**
- 4 That Council is of the opinion that the following rateable land will derive benefit from the business related costs of The Entrance Town Centre Management as detailed in Attachment 1:**
 - a All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburb known as The Entrance.**
 - b All land used as Major Facilities servicing tourists including Service Stations, Camp or Caravan Sites, Registered Clubs, Tourist Accommodation and Hotels/Motels as defined in Council's current Local Environmental Plan (LEP) and District Shopping Centres as defined in Council's current Retail Strategy in the suburbs known as The Entrance North, The Entrance, Blue Bay, Long Jetty, Toowoan Bay, Shelly Beach, Bateau Bay and Magenta.**
 - c All land used as rental accommodation and which is categorised as Residential under Section 516 of the Local Government Act, 1993 which is rented or leased for periods of three months or less in the suburbs known as The Entrance North, The Entrance, Blue Bay and Toowoan Bay.**
- 5 That Council is of the opinion that the following rateable land will derive benefit from the business related costs of the Greater Toukley Vision as detailed in Attachment 2:**

All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburbs known as Toukley, Canton Beach, Noraville and Norah Head.
- 6 That Council is of the opinion that the following rateable land will derive benefit from the business related costs of the Wyong-Tuggerah Chamber of Commerce as detailed in Attachment 3:**
 - a All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburb known as Watanobbi.**
 - b All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburb known as Wyong, bounded by the following:**
 - North of the Wyong River from Tacoma in the east to the F3 Freeway in the west;**
 - East of the F3 Freeway from the Wyong River to the suburb boundary between Wyong and Warnervale but to exclude Lot 32 DP 814964;**

- **South of the northern Wyong boundary to its intersection with the Pacific Highway and then south of the Pacific Highway to the intersection of Pollock Avenue, but to include Lot 400 DP 1114793, Lot 1 DP 411020, Lot 3 DP 607756 and Lot 1 DP 1090455 (these lots being to the north of the Pacific Highway; and**
 - **The eastern boundary of the suburb of Wyong from Johns Road to Wyong River.**
- 7 **That Council set the fees and charges for 2010-11 as detailed in the Revenue Policy and incorporating the changes outlined in this report.**
- 8 **That Council authorise the General Manager to borrow up to a total of \$27,750,000 from financial institutions with an Australian banking licence and \$2,457,000 from the Department of Lands in accordance with the Annual Plan.**
- 9 **That Council fully fund the position of an Indigenous Community Development Worker permanently whilst also seeking additional funds from the State/Federal Governments and the Darkinjung Land Council.**
- 10 **That Council be presented with a works program including a budget for the Indigenous Community Development Worker.**

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

AGAINST: NIL

2.2 Making and Fixing of Rates and Charges for 2010-11

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

- 1 **That Council make the following ordinary rates for 2010-11 consisting of a base amount to which an ad valorem amount is added, pursuant to Sections 492-494, 497-500, 535-537 of the Local Government Act 1993:**

Ordinary Rate Category Under Section 493	Base Amount	% revenue sourced from base amount for each category	Ad Valorem Amount (cents in the \$)
<i>Farmland</i>	\$158.00	7.73%	0.1953
<i>Residential</i>	\$158.00	19.07%	0.3366
<i>Mining</i>	\$158.00	0.33%	3.7399
<i>Business</i>	\$158.00	5.63%	0.6130

- 2 **That Council make the following special rates and amounts for 2010-11 consisting of a base amount to which an ad valorem amount is added, pursuant to Sections 492, 495, 497-500, 535-538 of the Local Government Act 1993:**

Special Rate	Base Amount	% revenue sourced from base amount for each category	Ad Valorem Amount (cents in the \$)
<i>The Entrance Town Centre</i>	\$71.00	13.53%	0.2238
<i>Non Residential Properties Toukley Area</i>	\$71.00	10.13%	0.2134
<i>Non Residential Properties Wyong Area</i>	\$71.00	17.97%	0.0874

- 3 That Council adopt the following descriptions of rateable land to which each special rate will apply for 2010-11, pursuant to Section 495 of the Local Government Act 1993:**
- a The Entrance Town Centre Special Rate will apply to the following rateable land:**
- i All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburb known as The Entrance.**
 - ii All land used as Major Facilities servicing tourists including Service Stations, Camp or Caravan Sites, Registered Clubs, Tourist Accommodation and Hotels/Motels as defined in Council's current Local Environmental Plan (LEP) and District Shopping Centres as defined in Council's current Retail Strategy in the suburbs known as The Entrance North, The Entrance, Blue Bay, Long Jetty, Toowoan Bay, Shelly Beach, Bateau Bay and Magenta.**
 - iii All land used as rental accommodation and which is categorised as Residential under Section 516 of the Local Government Act, 1993 which is rented or leased for periods of three months or less in the suburbs known as The Entrance North, The Entrance, Blue Bay and Toowoan Bay.**
- b The Non Residential Properties Toukley Area Special Rate will apply to all rateable land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in suburbs known as Toukley, Canton Beach, Noraville and Norah Head.**
- c The Non Residential Properties Wyong Area Special Rate will apply to all rateable land used for business purposes and categorised as such in accordance with Section 518 of the Local Government 1993 in the following areas:**
- i The suburb known as Watanobbi.**
 - ii The suburb known as Wyong, bounded by the following:**
 - North of the Wyong River from Boyce Avenue in the east to the F3 Freeway in the west.**
 - East of the F3 Freeway from the Wyong River to the suburb boundary between Wyong and Warnervale but to exclude Lot 32 DP 814964.**
 - South of the northern Wyong boundary to its intersection with the Pacific Highway and then south of the Pacific Highway to the intersection of Pollock Avenue, but to include Lot 400 DP 1114793, Lot 1 DP 411020, Lot 3 DP 607756 and Lot 1 DP 1090455 (these lots being to the north of the Pacific Highway).**
 - The eastern boundary of the suburb of Wyong from Johns Road to Wyong River.**
- 4 That Council make the following schedule of annual charges for stormwater management services for 2010-11, pursuant to Sections 496(A) and 510(A) of the Local Government Act 1993:**

Stormwater Management Charge	Unit of Charge	Charge
<i>Residential</i>	<i>Per property</i>	<i>\$25.00</i>
<i>Residential Strata</i>	<i>Per lot</i>	<i>\$12.50</i>
<i>Residential Company Title</i>	<i>Per Company Title complex apportioned according to the number of shares in the company owned by each shareholder</i>	<i>\$25.00</i>
<i>Business</i>	<i>Per 850 square metres or part thereof of the land area of the property to a maximum of \$5,000 per property</i>	<i>\$25.00</i>
<i>Business Strata</i>	<i>Per 850 square metres or part thereof of the land area of the strata complex to a maximum of \$5,000 per strata complex, apportioned equally to each lot within the strata complex</i>	<i>\$25.00</i>
<i>Business Company Title</i>	<i>Per 850 square metres or part thereof of the land area of the Company Title complex to a maximum of \$5,000 per Company Title complex, apportioned according to the number of shares in the company owned by each shareholder</i>	<i>\$25.00</i>

- 5 That Council **make** the following Domestic Waste Management Charges for 2010-11, pursuant to Section 496 of the Local Government Act 1993:

Description	Charge each
<i>Domestic Waste Management Charge</i>	<i>\$348.50</i>
<i>Domestic Waste Management Availability Charge</i>	<i>\$ 51.75</i>
<i>Domestic Waste Management Charge – Additional 240 litre Vegetation Bin Service</i>	<i>\$ 75.70</i>
<i>Domestic Waste Management Charge – 240 litre Waste Upgrade</i>	<i>\$ 76.50</i>
<i>Domestic Waste Management Charge – Additional 240 litre Waste Bin Service</i>	<i>\$287.60</i>
<i>Domestic Waste Management Charge – Additional 140 litre Waste Bin Service</i>	<i>\$188.90</i>
<i>Domestic Waste Management Charge – Additional 240 litre Recycling Bin Service</i>	<i>\$ 63.40</i>
<i>Domestic Waste Management Charge – West of F3 Freeway</i>	<i>\$286.20</i>
<i>Domestic Waste Management Charge – Additional Short Term Extra Service – 140 litre Waste Bin - price per service</i>	<i>\$ 13.35</i>
<i>Domestic Waste Management Charge – Additional Short Term Extra Service – 240 litre Waste Bin - price per service</i>	<i>\$ 14.10</i>
<i>Domestic Waste Management Charge – Additional Short Term Extra Service – 240 litre Recycling Bin - price per service</i>	<i>\$ 12.35</i>
<i>Domestic Waste Management Charge – Additional Short Term Extra Service – 240 litre Vegetation Bin - price per service</i>	<i>\$ 13.00</i>

- 6 That Council **continue** the current policy of not providing a Domestic Waste Management service to parcels of land which have no Council approval for a residential building.

- 7 That Council **make** the following Waste Management Charges for 2010-11, pursuant to Section 501 of the Local Government Act 1993:

Description	Charge each
<i>Waste Management Charge – 140 litre Waste Bin Service</i>	<i>\$ 204.70</i>
<i>Waste Management Charge – 240 litre Recycling Bin Service</i>	<i>\$ 63.40</i>
<i>Waste Management Charge – 240 litre Vegetation Bin Service</i>	<i>\$ 75.70</i>
<i>Waste Management Charge - 240 litre Waste Bin Service</i>	<i>\$ 311.40</i>
<i>Waste Management Charge - 660 litre Waste Bin Service</i>	<i>\$1,242.00</i>
<i>Waste Management Charge - 1.1 cubic metre Waste Bin Service</i>	<i>\$1,794.00</i>
<i>Waste Management Charge - 1.5 cubic metre Waste Bin Service</i>	<i>\$2,422.00</i>
<i>Waste Management Charge - 3.0 cubic metre Waste Bin Service</i>	<i>\$4,174.00</i>

- 8 That Council **apply** a proportional charge adjustment, calculated on a weekly basis, where Domestic Waste Management or Waste Management services commence or cease during the year.
- 9 That Council **charge** the maximum interest rate as specified by the Minister for Local Government and published in the Government Gazette in respect of overdue rates and charges levied under the Local Government Act 1993 and this interest be calculated on a daily basis using the simple interest method in accordance with Section 566 of the Local Government Act 1993, for the period of 1 July 2010 to 30 June 2011.
- 10 **Incentive Scheme**
- a That Council **offer** an incentive scheme for those eligible ratepayers who elect to pay, their 2010-11 Rates and Charges in full by 31 August 2010 and for those ratepayers who elect to pay by direct debit.
- b That Council **implement** the incentive scheme in accordance with the rules detailed in Attachment 1.
- c That Council **consider** a report detailing the success or otherwise of the scheme following the scheme period.

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

AGAINST: NIL

2.3 A Van Stappen Pty Limited -V- Wyong Shire Council Deed of Settlement and Release

Councillor Eaton declared a pecuniary interest in the matter for the reason that he is the solicitor for the plaintiff, left the meeting at 5.53 pm, took no part in voting and returned to the meeting at 6.05 pm.

The General Manager noted that a date mentioned in the report in the first paragraph under the heading of Legal Options Available to Council, on page 61 of the Business Paper, was incorrectly stated as "Friday, 21 May" when it should have been "Friday, 14 May 2010".

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

- 1 That Council **endorse** the Settlement Agreement outlined in the Deed of Settlement and Release.
- 2 That Council **authorise** the General Manager to execute the Deed of Settlement and Release.
- 3 That Council **seek** an appropriate contribution from HWL Ebsworth towards the settlement of the matter.

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

AGAINST: NIL

2.4 DA 1396/2009 - Proposed Health Services Facility at Woongarra

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he is a member of the Joint Regional Planning Panel which is determining the application, vacated his chair at 6.05 pm, took a seat in the public gallery during consideration of this matter and returned to his chair at 6.28 pm after voting was completed.

Councillor Symington declared a non-pecuniary significant conflict of interest in the matter for the reason that he is a member of the Joint Regional Planning Panel which is determining the application, vacated his chair at 6.05 pm, took a seat in the public gallery during consideration of this matter and returned to his chair at 6.28 pm after voting was completed.

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

- 1 That Council provide a submission, in the form of this report, to the Hunter and Central Coast Joint Regional Planning Panel indicating its strong support for the application.**
- 2 That Council request the Hunter and Central Coast Joint Regional Planning Panel vary the height requirements specified in SEPP (Major Development) 2005 to permit the development.**
- 3 That Council request the Director-General/ Hunter and Central Coast Joint Regional Planning Panel to grant concurrence to the variation to the maximum height of the building.**

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

AGAINST: NIL

2.5 Waste Levy - Section 88 Audit Negotiations

Councillor Best left the chamber at 6.28 pm and returned to the chamber at 6.33 pm during consideration of this item.

Councillor Matthews left the chamber at 6.29 pm and returned to the chamber at 6.31 pm during consideration of this item.

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

That Council endorse the agreement reached between the parties.

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

AGAINST: NIL

2.6 Wyong Shire Council ats Environment Protection Authority Land and Environment Court Proceedings No 50014, 50015 and 50016 of 2010

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

- 1 That Council endorse the agreement reached between the parties.**
- 2 The Council authorise the General Manager to action the agreement.**
- 3 That a report be submitted to Council in December 2010 outlining the status of the implementation of the proposed cultural change.**

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

AGAINST: NIL

2.7 Proposed Funding Agreement between Wyong Shire Council and Central Coast Tourism Incorporated

Councillor Wynn left the chamber at 6.45 pm and returned to the chamber at 6.47 pm during consideration of this item.

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

- 1 That Council allocate a further \$55,000 to Central Coast Tourism Inc (CCTI) for the 2010-11 financial year bringing the total subsidy for the 2010-11 financial year to \$150,000 and that Council determine the source of funding from the list of allocations made to their priority list projects which are attached to the report.**
- 2 That Council enter into a Memorandum Of Understanding with CCTI that addresses funding, reporting and compliance with the destination management plan prior to allocation of funding in the 2011-12 Management Plan.**

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

AGAINST: NIL

3.1 DA/664/2009 Proposed Dual Occupancy at Lakeside Parade, Long Jetty

Councillor Vincent left the chamber at 6.59 pm and returned to the chamber at 7.00 pm during consideration of this item.

It was MOVED by Councillor WYNN and SECONDED by Councillor GRAHAM:

That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, with an indication that based on the information available to it, Council is not supportive of the proposed development.

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

- 1 That Council defer this matter for negotiations between the General Manager, The Mayor and the applicant.*

- 2 That, in the absence of any successful negotiations, Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, with an indication that based on the information available to it, Council is not supportive of the proposed development.

The AMENDMENT was put to the vote and declared LOST.

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

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

That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, with an indication that based on the information available to it, Council is not supportive of the proposed development.

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

3.2 Comprehensive Local Environmental Plan Review Project

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

- 1 That Council continue to progress the Comprehensive Local Environmental Plan Review Project in accordance with Option 4 outlined within this report such that the LEP, the North Wyong Structure Plan and the Central Coast Regional Conservation Plan are exhibited concurrently.
- 2 That Council continue to lobby the Department of Planning and Department of Environment, Climate Change and Water regarding the importance of finalising the North Wyong Shire Structure Plan and Central Coast Regional Conservation Plan.
- 3 That staff prepare and implement a community education program that details the contents of the Standard Instrument and its applicability to the Comprehensive LEP.

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

4.1 Contract Variations and Finalisation - May 2010

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that with regard to Contract No 158914 he is the Chair of WYCRA that has a management agreement with YMCA for bingo and had one with LeisureCo, left the meeting at 7.38 pm, took no part in voting and returned to the meeting at 7.39 pm.

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

- 1 That Council note the Contract Variations and Finalisation May 2010 report (Attachment 1).
- 2 That Council approve additional expenditure above resolved estimates for the following contracts:

Contract Title	Contract No	Additional Expenditure
Wyong Coastline Management Plan	2328	\$10,000.00
Local Area Newspaper Advertising	CPA/132383	\$100,000.00

- 3 That Council note the additional expenditure requested is within approved program budgets.

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

AGAINST: NIL

5.1 Review of All Boat Ramps within Wyong Shire

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

- 1 That the Future Planning Unit work programme for 2010/2011 be amended to incorporate the development of a Boat Ramp/Aquatic Infrastructure Strategy for Council's consideration.
- 2 That the Draft Strategy include the following:
 - Locational principles;
 - Levels of Service;
 - Priorities for upgrading, maintenance, replacement or removal;
 - Work program to be incorporated into the 4 year Delivery Plan.
- 3 That the Draft Strategy (and pending preparation of the Strategy, any proposal for upgrading boat ramp infrastructure) be subject to a comprehensive community engagement process.

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

AGAINST: NIL

5.2 Policies on Grants and Sponsorship

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

- 1 That Council adopt the Policy, as amended, on Grants and Sponsorship (Outward).**
- 2 That Council adopt the Policy, as amended, on Corporate Sponsorships and Donations (Inward).**
- 3 That Council agree the Grants Committee Charter be amended to include the oversight of all outward grants and sponsorships and the amendment subsequently approved by Council resolution.**
- 4 That Council authorise staff to reflect the change to the Charter in the Grant Committee's internal procedural document.**
- 5 That Council promote and advertise these Policies.**

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

AGAINST: NIL

5.3 Minutes - Wyong Shire Seniors Citizens Council meeting - 27 May 2010

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

That Council receive the report on Minutes – Wyong Shire Senior Citizens' Council Meeting – 27 May 2010 and adopt the recommendations contained therein.

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

AGAINST: NIL

5.4 Proposed Councillors' Community Improvement Grants

Councillor Wynn declared a non-pecuniary insignificant conflict of interest in the matter for the reason that her husband is a member of the Masters Cricket Team for Doyalson Wyee Cricket Club which is an applicant and in respect of the application from Tracey Maguire in conjunction with San Remo Neighbourhood Centre, the events will be held in her community of Mannering Park.

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 EATON and seconded by Councillor SYMINGTON:

That Council allocate an amount of \$10,736.00 from the 2009-10 Councillors' Community Improvement Grants as outlined in the report.

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

AGAINST: NIL

5.5 Amendment to Delegation of Authority to General Manager

Councillor Best left the chamber at 8.22 pm and returned to the chamber at 8.23 pm and as a result took no part in voting.

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

- 1 That Council revoke any previous delegation or sub-delegation of the functions of the Council to the General Manager of the Council.**
- 2 That Council delegates to the General Manager of the Council all of its functions except for those functions which must not be delegated pursuant to section 377(1) of the Local Government Act, 1993 or those specifically excluded within this instrument.**
- 3 That Council sub-delegates to the General Manager of the Council all functions delegated to the Council except as provided in the relevant instrument of delegation to the Council.**
- 4 That Council authorise these delegations to be effective from 23 June 2010.**
- 5 That the General Manager provide a report on the sub delegations to other Council positions in the organisation by September 2010.**

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

AGAINST: NIL

6.1 Information Reports

Councillor Best left the chamber at 8.22 pm and returned to the chamber at 8.23 pm during consideration of this item.

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

That with the exception of report numbers 6.2 and 6.8 Council receive the information reports and adopt the recommendations.

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

AGAINST: NIL

6.2 Central Coast Capital - Response from the Minister for Planning

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

- 1 That Council receive the report on Central Coast Capital - Response from the Minister for Planning.**
- 2 That Council direct staff to note the need for a submission in this regard at the appropriate time prior to the next version of the Central Coast Regional Strategy.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MCNAMARA, SYMINGTON AND WEBSTER

AGAINST: COUNCILLORS MATTHEWS, MCBRIDE, VINCENT AND WYNN

6.3 Activities of the Development Assessment Unit

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

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

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

AGAINST: NIL

6.4 General Works in Progress

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

That Council receive the report on General Works in Progress.

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

AGAINST: NIL

6.5 Works in Progress Report - Water Supply and Sewerage

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

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

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

AGAINST: NIL

6.6 Mardi to Mangrove Link Project Status

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

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

6.7 Investments for May 2010

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

That Council receive the report on Investments for May 2010.

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

AGAINST: NIL

6.8 Update on the Formation of the Central Coast Water Corporation

Councillor Webster left the chamber at 8.38 pm and returned to the chamber at 8.39 pm during consideration of this item.

It was MOVED on the motion of Councillor EATON and seconded by Councillor BEST:

- 1 *That Council note the report on the update on the formation of the Central Coast Water Corporation.*
- 2 *That Council defer the formation of a project team pending the preparation of an internal impact assessment as set out in Notice Of Motion 8.1 – Water Corporation Impact Assessment included in this business paper.*

An AMENDMENT was MOVED by Councillor GRAHAM and SECONDED by Councillor SYMINGTON :

That Council note the report on the Update on the Formation of the Central Coast Water Corporation.

The AMENDMENT was put to the vote and declared CARRIED.

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

AGAINST: COUNCILLORS BEST AND EATON

The AMENDMENT became the MOTION

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

That Council note the report on the Update on the Formation of the Central Coast Water Corporation.

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

AGAINST: COUNCILLORS BEST AND EATON

6.9 Outstanding Questions Without Notice and Notices of Motion

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

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

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

AGAINST: NIL

8.1 Notice of Motion - Water Corporation Impact Assessment

Councillor Eaton requested that this item be discussed and considered in conjunction with Item 6.8 -Update on the Formation of the Central Coast Water Corporation.

QUESTIONS WITHOUT NOTICE

Q86/10 Extension of Consent Period for Current Development Consents

Councillor Eaton

F2004/07052

“Could Council staff confirm that all current live Development Applications now have a five year consent period due to new State Government Regulation?”

Q87/10 Fees payable by Central Coast Triathlon and Multi Sports Club for use of Council facilities

Councillor Best

C2010/01723

I table a letter from Central Coast Triathlon and Multi Sports Club seeking review of fees charged by Council to a not for profit community organisation to hold an event. Could the currently outstanding amount be held in abeyance pending review by staff?

THE MEETING closed at 9.15 pm.

2.1 Local Government Shires Association Sustainable Choice Program

TRIM REFERENCE: F2009/00070 - D02004095

AUTHOR: KD

SUMMARY

This report outlines the 'Sustainable Choice' program, a sustainable procurement program that will assist Council to meet Ecologically Sustainable Development (ESD) and triple bottom line objectives when considering procurement options. It is a joint undertaking of the Local Government and Shires Associations (LGSA) of NSW with the Department of Environment, Climate Change and Water (DECCW) and provides support and guidance to councils on products and services that:

- save energy or water,
- contain recycled content,
- are non toxic,
- have greenhouse or biodiversity benefits,
- advance council's social or environmental objectives in some way, and
- provide long or short term cost benefits.

There are no fees or charges to join the Sustainable Choice program (SCP) and research indicates financial, social and environmental gains are achievable.

RECOMMENDATION

- 1 That Council accept in writing the LGSA's invitation to join the Sustainable Choice program.**
- 2 That Council endorse and implement the Sustainable Choice procurement policy principles as set out in Attachment 1.**
- 3 The Staff provide a further report to Council outlining options for the funding of sustainability initiatives including the means of implementing a Sustainability Revolving Fund.**

BACKGROUND

The Sustainable Choice Program (SCP) is a joint undertaking of the LGSA with DECCW and participating Councils. The program provides support and guidance to councils on sustainable products and services. The program broadly assists in advancing Council's social and environmental objectives. It is an opportunity for Council to gain recognition for the ongoing commitment to sustainability initiatives under its procurement practices. There is no financial contribution required to join the program, however, one of the criteria to join is the requirement for a formal resolution of Council.

Around the world, municipal governments are harnessing the power of procurement to achieve better financial, environmental and social outcomes. In NSW, the local government sector spends approximately \$5billion per annum buying products, services and infrastructure. This represents a powerful force to help drive technical innovation and improved efficiency.

2.1 Local Government Shires Association Sustainable Choice Program (contd)

The procurement of sustainable products and services helps Council meet its obligations under section 8 of the Local Government Act (LGA):

“to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development.”

Sustainable procurement also helps councils achieve triple bottom line objectives, delivering better environmental, social and economic outcomes to the community.

Sustainable Procurement can;

- improve efficiency and reduce waste;
- save money through “whole of life” cost analysis;
- demonstrate leadership in sustainability to the community and stakeholders;
- support local communities and businesses;
- deliver statutory and community service obligations;
- stimulate markets for material collected through council’s kerbside collection; and
- help achieve long term social and environmental objectives.

Sustainable Products

All products have some level of environmental and social impact. This may occur at any or all stages of a product’s life cycle – raw material acquisition, manufacture, distribution, transport, use and disposal. By making informed procurement decisions, Council can dramatically reduce water and energy consumption, and the amount of pollution, waste and greenhouse gas emissions generated. In many cases long term cost savings are also possible. Under the program Sustainable products are defined as those that:

- contain recycled content;
- are reused or recycled at end of life;
- reduce greenhouse gas emissions;
- save water and/or energy;
- are non toxic;
- help protect biodiversity and habitat;
- are made or recycled locally; and
- provide long term value for money

Sustainable Choice Program (SCP)

The LGSA, in partnership with the DECCW has established a new sustainable procurement program for local government called ‘Sustainable Choice’. The program evolved from the Local Government Buy Recycled Alliance (LGBRA) and expands beyond the previous emphasis on recycled products.

The purpose of the SCP is to build sustainable procurement capacity within the local government sector through staff peer education and information sharing. Workshops, seminars and product expos are organised and staff training is available. Information on specific products and services is available via fact sheets, briefing notes and case studies which showcase successful procurement initiatives already happening. A web based data base of sustainable products is available to help council staff locate sustainable products and services.

Supporting Councils At All Levels

Wyong Shire Council has embarked on a cultural change journey towards a more sustainable future. To date this has led to a number of initiatives and actions involving procurement which include:

- A review of Council's procurement policy;
- A Local Preference Policy – which acknowledges Council's role in the community as a purchaser and favours local content when acquiring goods and services;
- Establishment of the Project Assistance Team (PAT) to provide senior management guidance to help project officers identify the drivers and rationale for projects in terms of Council's sustainability principles and decision making;
- A review of Council's motor vehicle policy including strong pricing incentives for a reduction in vehicle size (reducing Council's financial commitment and contribution to CO₂);
- Selection of Euro IV trucks where possible, reducing environmental impact and increasing financial return at point of sale;
- Generally selecting four stroke engines over two stroke (generators, brush cutters etc) greatly improving emission levels and operating costs;
- Creation and implementation of an Energy Savings Action Plan to examine and recommend changes to the current use of Council energy;
- Increase in Council's purchase of 'green power';
- Use of recycled PET bottles for construction of boardwalks in foreshore areas subject to drainage run-off; and
- Review of the purchase of printers and their default settings by Council's Business Improvement Team.

Consideration of sustainability in decision making is already widely occurring within Council. As such, the proposal to join the sustainable choice program is an extension of current work and a cultural shift that is already occurring.

Many Councils are already practising some level of sustainable procurement and some are quite advanced. For example,

- Byron Shire and Mosman Councils have installed water treatment systems using 100% recycled plastic pipes;
- Newcastle City, Gosford City and Leichhardt Councils are experimenting with alternative fuels and hybrid vehicles to improve fleet management; and
- North Sydney Council has run a staff competition between departments for the best green purchasing initiative.

Different approaches work for different councils. This is the key to the SCP providing individual support tailored to the specific needs of individual member councils. A list of current member Councils is included in this report in Attachment 2.

Sustainable procurement is an effective mechanism to help Council deliver other programs and activities such as the Energy Savings Action Plan (ESAP) and water saving plans, greenhouse and waste reduction strategies, community service and environmental obligations.

2.1 Local Government Shires Association Sustainable Choice Program (contd)

To complement and assist with the practical implementation of the SCP and other initiatives such as the ESAP, staff are currently investigating options for ongoing funding of sustainability initiatives. These options include the development of a **Sustainability Revolving Fund** whereby a proportion of the savings achieved as a result of sustainability initiatives is diverted into a designated fund to provide funding for future initiatives. While a revolving fund would appear to provide benefits in creating ongoing funding for sustainability initiatives there may be significant practical difficulties in determining which initiatives and what percentage of the savings created by each initiative that would be attributable to sustainability and therefore should flow into the revolving fund. The results of this investigation and the way such a fund may operate, along with other potential option will be the **subject of a future report to Council**.

Financial Implications

There are no fees or charges to join the SCP, the contributions are in-kind through staff actions. Research indicates financial, social and environmental gains are achievable. Long or short term cost benefits and improved efficiencies are available through the increased buying power of combined NSW local governments and through products and services that save energy or water for councils. In many cases long term cost savings are also possible through whole of life cost analysis. It is likely that this commitment to sustainability may result in cost savings for council – dispelling the myth that sustainable products cost more.

CONCLUSION

The objective of the SCP is not to create a new set of milestones and onerous reporting obligations, but rather to build upon what Council is already doing by facilitating increased levels of sustainable procurement through information sharing and capacity building, and to integrate sustainable procurement into Council's existing policies and systems.

ATTACHMENTS

- | | | |
|---|------------------------------------|-----------|
| 1 | Sustainable Procurement Principles | D01950187 |
| 2 | Sustainable Choice Member Councils | D01950189 |

Sustainable Procurement Principles

Purpose

These policy principles are intended to reinforce council's existing procurement policies

Procurement Goals

Wherever possible, Wyong Shire Council employees and contractors will pursue the following goals and adhere to the specified objectives when purchasing products and services (noting that these impacts should be considered during the entire life cycle of the product, i.e. the production, distribution, usage and end of life stages).

- Minimise Unnecessary Procurement - only purchase when a product or service is necessary;
- Minimise Waste - purchase in accordance with avoid, reduce, reuse and recycle strategies;
- Save Water and Energy – select products that save energy and/or water ;
- Minimise Pollution – avoid products that pollute soils, air or waterways;
- Non Toxic – avoid purchasing hazardous chemicals that may be harmful to human health or ecosystems;
- Greenhouse Benefits – purchase products that reduce greenhouse gas emissions;
- Biodiversity & Habitat Protection – purchase in accordance with biodiversity and conservation objectives;
- Value for Money – purchase for best value for money considering life cycle operating costs and disposal/reuse options

Objectives

Council's objectives through sustainable procurement are to:

- eliminate unnecessary inefficiency, waste and expenditure;
- contribute to the combined procurement power of local government to further stimulate demand for sustainable products, including materials collected through council's kerbside collection;
- advance sustainability by participating in "closing the life-cycle loop";
- increase awareness about the range and quality of products available;
- deliver council's commitments in relation to ecologically sustainable development (ESD) and other environmental and social objectives;
- play a leadership role in advancing long term social and environmental sustainability; and
- support local businesses and organisations

Actions

To achieve the above objectives, Council will:

- nominate a staff member as the key contact on sustainable procurement issues;
- establish a sustainable procurement team (or refer to an existing team already operating within council) to co-ordinate, develop and implement this policy;
- ensure that sustainable procurement goals and objectives (above) are incorporated into council's procurement policies and processes;
- ensure that staff are fully informed about the benefits of sustainable procurement;
- develop documentation to assist council staff involved in procurement to comply with council's policy for sustainable procurement (the Sustainable Choice program will be assisting by providing templates and guidance);
- establish a system to monitor and report on the scope and level of sustainable procurement within council;
- council participation in the Sustainable Choice annual reporting questionnaire to record the scope and level of sustainable procurement taking place in NSW local government;
- include relevant specifications in tender documentation and require council's contractors and consultants to comply with this policy (the Sustainable Choice program will be assisting by providing templates and guidance);
- participate in the Sustainable Choice program to facilitate sustainable procurement in local government through staff peer education and information sharing

Sustainable Choice Member Councils

Ashfield Municipal Council	Fairfield City Council	Penrith Council
Ballina Shire Council	Forbes Shire Council	Pittwater Council
Bathurst Regional Council	Great Lakes Council	Port Macquarie-Hastings Council
Bellingen Shire Council	Hornsby Shire Council	Randwick City Council
Byron Shire Council	Hurstville City Council	Rockdale Council
Cabonne Council	Kempsey Shire Council	Shoalhaven City Council
Camden Council	Kiama Municipal Council	Strathfield Council
Campbelltown City Council	Kogarah Council	Sutherland Shire Council
Cessnock City Council	Lane Cove Council	Wagga Wagga City Council
City of Canterbury	Leichhardt Council	Warringah Council
City of Lake Macquarie	Lismore City Council	Willoughby City Council
City of Ryde	Marrickville Council	Woollahra Council
City of Sydney	Mosman Council	
Clarence Valley Council	Nambucca Shire Council	
Coolamon Shire Council	North Sydney Council	
Cowra Shire Council	Orange City Council	
Dubbo City Council	Palerang Council	

2.2 DA/790/2009 - Proposed Boundary Adjustment at Wyong Creek

TRIM REFERENCE: DA/790/2009 - D02265225

AUTHOR: PF

SUMMARY

An application has been received for a two lot boundary adjustment at Wyong Creek. 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 Department of Planning (DoP) has advised Council under Circular No PS 08-014, that where variations in excess of 10% to an LEP provision occurs, the application must be determined by the elected Council.

Applicant	Chase Burke Harvey
Owner	A & C Cornwall
Application No	790/2009
Description of Land	Lot 54 DP 5987, Lot A DP 100173 Yarramalong Road, Wyong Creek
Proposed Development	Boundary Adjustment
Site Area, Zoning	Lot 54 DP 5987 11.36 ha Lot A DP 100173 1,075m ²
Zoning	1(a) Rural Zone

RECOMMENDATION

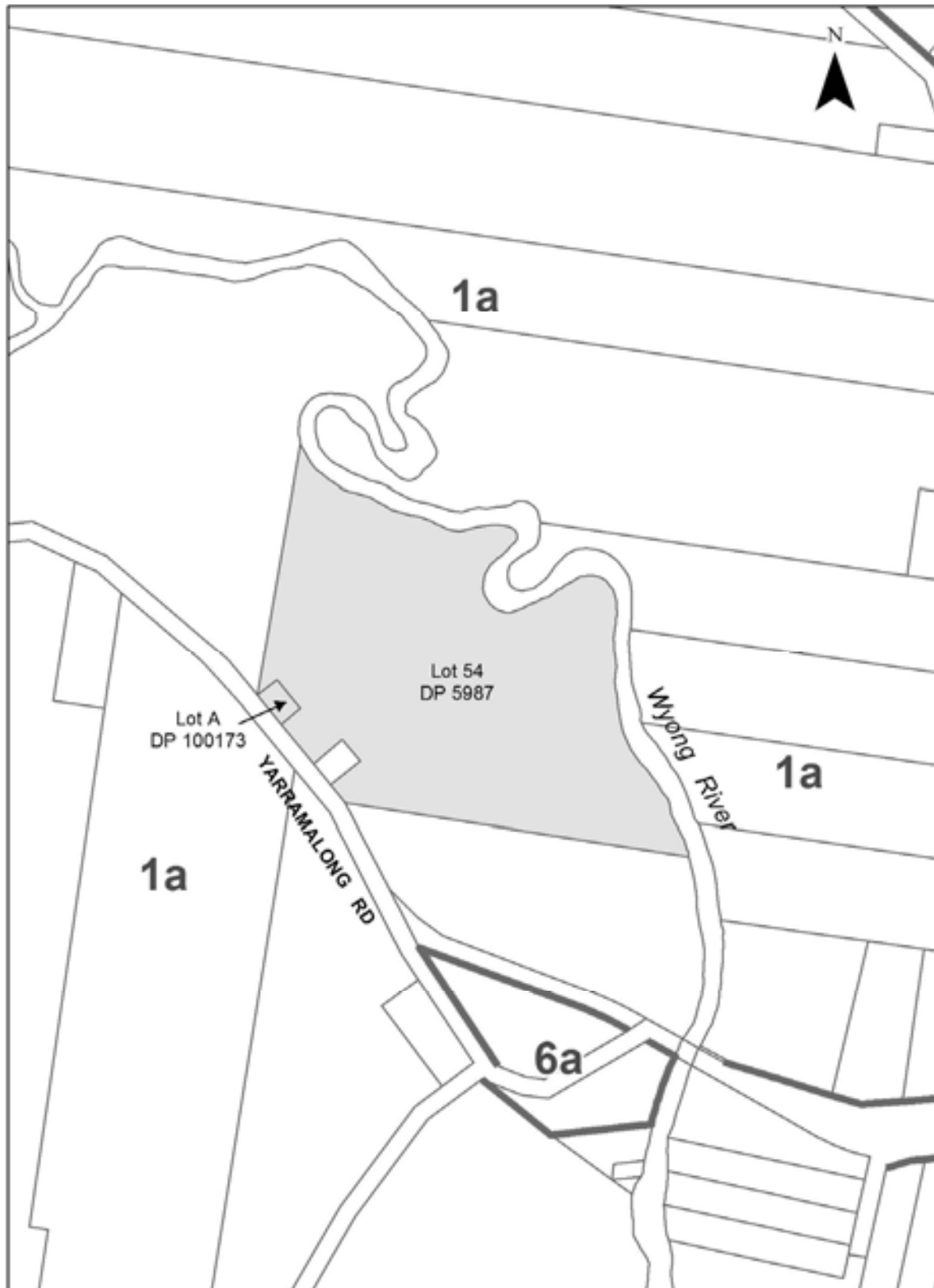
That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours refusal of the application subject to appropriate reasons for refusal.

PRECIS

- Application involves the adjustment of the common property boundary between two allotments at Wyong Creek. A boundary adjustment is defined as "Subdivision" under the provisions of Clause 7 of the Wyong Local Environmental Plan 1991 (WLEP).
- The subject allotments are zoned 1(a) Rural zone.
- The applicant proposes the use of State Environmental Planning Policy No 1 (SEPP 1) to vary the subdivision standards of WLEP. The proposal involves an 88% variation to the subdivision standard.

- Council delegation extends to assuming concurrence of the DoP for the use of SEPP 1 in this instance. The delegation issued under Circular B1 allows Council to assume concurrence for two lot boundary adjustments where both lots are presently below the minimum subdivision standard subject to no additional allotments being created, the agricultural use of the land not being jeopardised and that no additional housing entitlements are created.

Locality Plan



INTRODUCTION

The Site

The subject site comprises two parcels of land (Lot 54 and Lot A) on Yarramalong Road adjacent to Wyong Creek and is approximately 2.5 kilometres west of the Wyong Post Office. The land is relatively level and is used for grazing and other rural purposes.

Lot A contains a dwelling house while Lot 54 is vacant (Refer to "Attachment 1"). Both allotments are held in the same ownership. Lot 'A' is relatively small and does not within itself promote any rural land use. The history in relation to the creation of Lot A as a small parcel was most likely due to the lack of strategic planning in relation to subdivision that commonly occurred during the early and middle part of the last century.

Lot 54, the larger parcel is used as grazing land for cattle.

The lower Wyong Creek valley is dominated by turf farms and grazing land.



Aerial view of Lot 54 (larger parcel) and Lot A (smaller parcel, dwelling included)

The Proposal

Development Consent is sought to adjust the common property boundary between Lots A and 54.

Matters for consideration include the extent of impact on the agricultural viability of the land and the potential for the vacant parcel (proposed Lot 542) to support a dwelling house. In circumstances where a boundary adjustment involves vacant land, it needs to be demonstrated that the vacant parcel can adequately accommodate a dwelling house and associated structures.

A written objection under the provisions of SEPP1 has been submitted seeking variation to the development standards contained within Clause 14 of WLEP. The merits of the SEPP 1 objection are assessed in detail within the report.

VARIATIONS TO POLICIES

Clause	14(2)
Standard	20 hectares
LEP	Wyong Local Environmental Plan 1991
Extent of variation/departure	88.00% for proposed Lot 541 55.13% for proposed Lot 542
Departure basis	Not supported – recommend refusal

HISTORY

Lot 54 DP 5987 was registered circa 1902. No apparent restrictions on the title and currently used for cattle grazing.

Lot A DP 100173 was registered on 15 August 1953. No apparent restrictions on the title and occupied by a dwelling house and associated sheds.

STATUTORY PROVISIONS and RELEVANT STATE/COUNCIL POLICIES and PLANS

Environmental Planning and Assessment Act 1979

The application has been examined having regard to the matters for consideration detailed in Section 79C of the EP&A Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The application is defined as “Integrated Development” under the provisions of Section 91 of the Act. Integrated Development is defined as development that requires a concurrence from a State Authority in this case being the NSW Rural Fire Service (RFS).

The RFS has responded by granting a “Bush Fire Safety Authority” under Section 100B of the Rural Fires Act, 1997.

State Environmental Planning Policies (SEPP)

The application is not subject to any specific SEPP. However, the applicant has elected to use SEPP No 1 – *Development Standards*, in order to address the provisions of the WLEP.

The merits of the SEPP 1 objection are addressed further in the report. The DoP has advised Council under Circular No PS 08-014, that where variations in excess of 10% to an LEP provision occurs, the application must be determined by the elected Council.

Regional Environmental Planning Policies

The land is not affected by Sydney Regional Environmental Plan No 8 – *Central Coast Plateau Areas*. This policy applies to most of the Shire's 1(a) zoned land in the Kulnura region and surrounding areas but does not extend to the lower Wyong Creek valley region.

Wyong Valley Study – Planning and Strategy Reports

The Wyong Valley Study was prepared in 1998 as an overview of past and current land uses together with future strategies for the valley regions. Although the strategy for zone changes was never adopted, the principles of the review are considered relevant when assessing applications, particularly where adjustment to allotment boundaries occur.

The study concentrated on the history and future intent of the valley areas, emphasising the opportunities to establish hobby farming and encourage other rural uses. Minimum Lot size was of paramount importance in order to maintain zone objectives.

Wyong Local Environmental Plan 1991 (WLEP)

(i) WLEP - Definition

Subdivision (including boundary adjustment) is defined under Section 4B of the Act. Although not specifically defined under the definitions contained within Clause 7 of WLEP, the development is identified as "Subdivision" and "Boundary Adjustment" pursuant to Clause 13 – *Subdivision of Land*, in the WLEP and is permitted with consent.

(ii) WLEP – Aims, Objectives and Zoning

The overall aims and objectives of the WLEP relevant to the proposed boundary adjustment are contained within Clause 2 (2) (g) which state:

"2 (2) The objectives of this plan are -

(g) in relation to rural and environmental areas -

- (i) to protect environmentally sensitive areas from development and minimise adverse impacts of urban development on the natural environment;**
- (ii) to restrict development within flood prone areas in order to minimise flood damage and obstruction to flood waters; and**
- (iii) to encourage use of land having a high agricultural potential for that purpose and as much as possible direct non-agricultural purposes to land of lesser agricultural potential;"**

The proposed boundary adjustment is considered to be inconsistent with the objectives contained within Clause 2(2)(g) of WLEP in that:

- * The subdivision, although not specifically for the purpose of the erection of a dwelling house, will result in the creation of a vacant allotment which would have the potential of accommodating a dwelling house. The land is flood prone and the potential for the erection of a future dwelling house may result in flood damage to occur to a future dwelling house and the obstruction of flood waters.

- * The reduction in the existing site area of Lot 54 will reduce the agricultural potential of the land contrary to objective 2(2)(g)(iii) of WLEP.

The subject land is zoned 1(a) Rural Zone. The objectives of the zone are:

- (a) to protect, enhance and conserve agricultural land in a manner which sustains its efficient, sustainable and effective agricultural production potential, and**
- (b) to facilitate development requiring a rural or isolated location or associated with agricultural pursuits, and rural industry, provided that it is unlikely to-**
- (i) prejudice the present environmental quality of the land within this zone, or**
- (ii) 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**
- (iii) prejudice the intent of the objective specified in paragraph (a), or**
- (iv) have an adverse impact on the region's water resources."**

The proposed subdivision is considered to be inconsistent with the objectives of the 1(a) Rural zone in that:

- * The reduction in the size of existing Lot 54 would reduce the agricultural potential for the existing allotment contrary to objective (a) which is to protect, enhance and conserve agricultural land.
- * The potential for a dwelling house to be erected in the future on proposed Lot 542 is likely to prejudice the environmental quality of the site due to the flood affection of the property.

(iii) WLEP - Subdivision and other Provisions

The relevant matters for consideration under WLEP are as follows;

Clause 14 (2) – *Subdivision of land within zone 1(a)*

This clause provides minimum lot requirements for subdivision within certain zones, generally rural and conservation zones. The proposal represents a departure to the development standard contained within Clause 14(2). The applicant has formally objected to the minimum lot requirement under SEPP 1.

Clause 18 – *Lot Amalgamation*

This clause reflects the need for some properties to be amalgamated resulting from development. Both allotments are held in the same ownership but are not subject to the "common ownership" provisions of the clause.

Wyong Development Control Plan 2005, Chapter 66 – Subdivision

While a boundary adjustment is not specifically defined within the WLEP, DCP Chapter 66 contains the following definition:

“Boundary Adjustment means the creation of new lots through the movement of their common boundary, where no additional lots are created and each lot maintains compliance with the required minimum area within the relevant zone.”

Policy W1 – Water Catchment Areas

This policy controls development within the water catchments of the Shire. Subdivision is not identified as prohibited development.

Policy F5 – Flood Prone Land

This policy controls development on land affected by flooding. The proposed boundary adjustment is not prohibited under the policy. However, the site is fully flood affected and therefore, a more detailed assessment is provided within the report.

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

A precautionary principle should be applied in the circumstances when considering the likelihood of a future dwelling house being erected on proposed Lot 542 which is classified as High Hazard flood prone land.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the Act 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 LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b)):***Discussion and assessment of Boundary Adjustment/Subdivision Strategy*****Preamble**

Existing Lot A is a small parcel of land having an area of 1,075m². Lot 54 has an area of 11.36 hectares. It is proposed to incorporate the northern part of Lot 54 within Lot A to form a larger parcel.

Property Dimensional Summary

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

□ The current Lot status:

Lot 54 DP 5987 = 11.36 ha zoned 1(a) Rural



Lot 54

Lot A DP 100173 = 1,075m² zoned 1(a) Rural



Lot 'A'

□ The proposed Lot configuration:

Proposed Lot 541 = 2.389 hectares zoned 1(a) Rural

Proposed Lot 541 will result in an increase in area of 2.2815 hectares and represents a variation of 88% to the minimum standard of 20 hectares under the WLEP.

Proposed Lot 542 = 8.974 hectares, zoned 1(a) Rural

The area of proposed Lot 542 is reduced by 2.386 hectares and represents a variation of 55.13% to the minimum standard of 20 hectares under the WLEP.



Proposed new boundary

Subdivision Strategy – Clause 14(2) of WLEP

Clause 14 states:

Subdivision of land within Zone No 1 (a), 1 (c), 7 (a), 7 (b), 7 (c), 7 (d), 7 (e) 7 (f) or 7 (g)

- “14 (1) This clause applies to land within Zone No. 1(a), 1(c), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f) or 7(g).**
- (2) Except as provided by subclauses (3) and (4), a person shall not subdivide land to which this clause applies so as to create an allotment having an area of less than -**
- (a) in the case of land within Zone No. 1(c), 7(a), 7(d), 7(e), 7(f) or 7(g) - 40 hectares;**
 - (b) in the case of land within Zone No. 1(a) or 7(b) - 20 hectares;**
 - (c) in the case of land within Zone No. 7(c) - 2 hectares”.**

The subdivision does not comply with the minimum allotment area requirement under Clause 14(2). The applicant has sought a variation to the minimum allotment requirement by the submission of a written objection pursuant to the provisions of SEPP 1. As previously stated, the extent of departure to the standard is 88% for proposed Lot 541 and 55.13% for proposed Lot 542.

Objection under State Environmental Planning Policy No 1 (SEPP No 1)

SEPP No 1 provides flexibility in the application of planning controls 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 objectives specified in Section 5(a)(i) and (ii) of the Act, which are to encourage proper and appropriate land management within the natural environment.

Clause 6 of SEPP No. 1 allows for a written objection to be submitted to accompany a Development Application. The written objection is required to state that compliance with a specific development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection.

Clause 7 of SEPP No. 1 allows the Consent Authority to grant consent to a Development Application notwithstanding the non-compliance with the development standard referred to in Clause 6 of SEPP No. 1. It is incumbent upon the consent authority to seek the concurrence of the Director General of DoP, however, in most cases concurrence is delegated to consent authorities to determine the SEPP No. 1 Objection.

Clause 8 of SEPP No. 1 identifies the following matters which are required to be taken into consideration in deciding whether concurrence should be granted or not:-

- "8. (a) *Whether non-compliance with the Development standard raises any matter of significance for State or Regional Environmental Planning, and*
- (b) *The public benefit of maintaining the Planning controls adopted by the Environmental Planning Instrument".*

Matters to be considered in the use of SEPP No. 1 are also detailed in the DoP Circular No. B1 which states: -

"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 unnecessary and unreasonable".

In *Winten Property v North Sydney* (2001) NSWLEC 46 Justice Lloyd sets out a five part test for considering SEPP No. 1 Objections.

The test in *Winten Property v North Sydney* sets the following criteria:-

- "1. *Is the planning control in question a development standard?*
2. *What is the underlying object or purpose of the standard?*
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 EP&A Act?*
4. *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*
5. *Is the objection well founded?"*

Justice Lloyd then goes on to provide further clarification regarding item 4 above by stating that the consent authority needs to consider whether a development which complies with the development standard is unreasonable or unnecessary in the circumstances.

The assessment of SEPP No. 1 Objections was given significant consideration by Chief Judge Preston in *Wehbe v Pittwater Council* (2007) NSWLEC 827 wherein the Chief Judge provided clarification of the criteria to be used when assessing a SEPP No. 1 Objection. The criteria set by Preston CJ are as follows:-

- "1. *The Court must be satisfied that "the objection is well founded" (Clause 7 of SEPP No. 1). The objection is required to be in writing and be an objection that "compliance with that development standard is unreasonable or unnecessary in the circumstances of the case", and specify "the grounds of that objection" (Clause 6 of SEPP No. 1).*
2. *The Court must be of the opinion that "granting of consent to that Development Application is consistent with the Aims of this policy as set out in Clause 3" (Clause 7 of SEPP No. 1). Further clarification is provided by the statement that the Aims and Objects of SEPP No. 1 set out in Clause 3 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".*
3. *The Court must be satisfied that a consideration of the matters in Clause 8 (a) and (b) of SEPP No. 1 justifies the upholding of the SEPP No. 1 Objection. The matters in Clause 8 (a) and (b) are:-*
 8. (a) *Whether non-compliance with the development standard raises any matter of significance for State or Regional Environmental Planning, and*
 - (b) *The public benefit of maintaining the planning controls adopted by the environmental planning instrument".*

Preston CJ set the following five criteria to establish the way in which an objection under SEPP No. 1 may be well founded and be consistent with the Aims set out in Clause 3 of the Policy.

These criteria are as follows:-

- "1. *Establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the Development standard are achieved notwithstanding non-compliance with the standard.*
2. *Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
3. *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
4. *Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the Standard is unnecessary and unreasonable.*

5. *Establish that the zoning of the particular land was unreasonable or inappropriate so that the development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary”.*

Preston CJ goes on to caution that the dispensing power under SEPP No. 1 is also not a general planning power to be used as an alternative to the plan making power under Part 3 of the Act to change existing planning provisions. Therefore, an objection cannot be used as a means to alter or change general planning provisions throughout a Local Government Area or to avoid the need for a rezoning.

The SEPP 1 objection submitted by the Applicant is considered to be not well founded in that the objection does not satisfy the test in Winten Property.

The SEPP 1 objection does not account for the potential future erection of a dwelling house on proposed Lot 542 and fails to address the underlying purpose of the standard contained within Clause 14 of WLEP.

The relationship to the regional and local context and setting.

The region west of the freeway to the Yarramalong Village is dominated topographically by the Wyong Creek and valley floor with hills on either side. Historically the valley has been used for rural activities such as cattle grazing and citrus growing and, more recently, turf farming has become the more dominant rural industry.

In circumstances where subdivisions or boundary adjustments involve vacant land, it is regarded as good planning practice for an Applicant to demonstrate that the vacant parcel can sustain a form of residential development, as defined under the WLEP. In this regard, a dwelling is considered an appropriate form of residential development permissible with consent for proposed Lot 542. The Applicant has identified a building envelope on proposed Lot 542. For reasons stated elsewhere in this report, the future erection of a dwelling house on the vacant Lot is not supported and is considered to be inconsistent with the objectives of the WLEP and the 1(a) Rural Zone.

The access, transport and traffic management measures.

The current access provisions to the existing dwelling will not alter.

The location of a driveway to the indicative envelope for proposed Lot 542 will not provide safe vehicular ingress and egress during periods of flooding (see more detailed comments on flooding later in the report).

The impact on utilities supply.

The site is situated in a non-sewered area and as such, on-site waste disposal is required to accommodate domestic waste. The applicant indicates that a mounded transpiration system located adjacent to the indicative future dwelling site on proposed Lot 542 would be appropriate.

The waste disposal envelope is situated approximately 335 metres from the nearest watercourse on the highest part of the land. This is considered to be the most appropriate option for waste disposal in a floodplain.

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

Bush Fire



Aerial view of subject site and surroundings with extent of bush fire risk superimposed on image

The site is affected by the risk of fire mainly along the vegetated areas adjacent to the creek. The location of the indicative building envelope on proposed Lot 542 is toward the outer edge of the buffer to the fire risk. The bush fire assessment suggests a low risk of fire and concludes the available cleared areas surrounding the site as adequate for asset protection.

The existing dwelling is not subject to the risk of fire.

Flooding

While the boundary adjustment is of minimal concern the provision of the proposed building envelope and effluent disposal area is not supported. Both areas are in a high hazard flood zone i.e. flood waters greater than 0.8m in depth, with an average velocity up to 0.46m/s and a maximum velocity up to 1.1m/s. There is no low hazard escape route from the site should future residents become trapped. Should the residents be able to relocate to Yarramalong Road, this road will become blocked and inundated as will Old Maitland Rd again leaving residents trapped. In such circumstances the Possible Maximum Flood (PMF) level should be considered. The FloodPlain Development Manual does not support the creation of islands especially those that are inundated in a PMF. The risk to life in the above situation is high with potential mitigation measures to be introduced negligible and therefore the proposed development should not be supported.

It should also be noted that the boundary adjustment will allow the running of various rural pursuits on both properties. Council has already been under pressure to allow flood mounds for livestock on properties that are fully flood affected. This would apply to both resultant properties with the development approval.

The proposed effluent disposal area appears to rely on filling to obtain the desired results for effluent disposal. Council does not support filling in the floodplain area and therefore the effluent disposal method will need to be redesigned. The effluent disposal area is also in the water catchment area for the Shire.

The maximum ground level at the site is identified as 8.33m AHD at the boundary of the site with Yarramalong Rd. The flood level at the site has been identified in 2 reports – one indicates a 1% AEP flood level of 9.59m AHD and the other 9.38m AHD. Velocity at the site in the 2 reports indicate a velocity of 0.46m/s and 0.3m/s with a maximum velocity possible at the site of 1.1m/s. Council has based its assessment on the worst scenario from the reports but both reports indicate that the site is fully inundated by high hazard flooding. The PMF level for the site is identified as 10.58m AHD. An historical flood level has been identified at the site with a level of 8.70m AHD in 1964.

Council's Flood Policy P5 indicates that the type of development proposed may be permitted subject to meeting all State and Local legislative requirements, policies and guidelines, etc. The policy also indicates that if a low hazard flood evacuation route is not available, the development will be subject to additional investigation regarding the suitability of the proposed development. It is considered that the proposed development does not meet the requirements of the NSW Floodplain Development Manual and is considered to be a high risk development and is therefore should not be supported.

In summary,

- The proposed building envelope is in an area of high hazard flooding with no low hazard escape point. The NSW Floodplain Development Manual does not support the creation of islands. Any dwelling built in the proposed building envelope would become an island.
- The PMF is to be considered where a low hazard escape route is not available. The PMF level of 10.58m AHD would indicate a flood height over the property of 2.25m. This is considered to be extreme and a risk to life. The flood depth in the 1% flood of 1.26m including a velocity of 0.46m/s is also considered to be unacceptable and a risk to life.
- The proposed effluent disposal site indicates a need to place fill within the floodplain. This is not supported therefore an alternative effluent disposal system will be required. It should be noted that the proposed development is within the water catchment area for Wyong Shire.

Council's flood policy suggests that where a dwelling in a rural area cannot demonstrate safe evacuation then the title of the land is to carry a notation identifying that evacuation cannot be achieved.

Council's flood policy states:

"In a merit assessment in high hazard areas, the developer or property owner will not be required to satisfactorily demonstrate that permanent, fail-safe, maintenance free measures are incorporated in the development to ensure the timely, orderly and safe evacuation of people from the area, but any approval may be subject to conditions in respect of such matters.

However any proposal for a development on flood prone land that cannot provide a flood free evacuation procedure will be subject to additional investigation by staff in conjunction with the applicant and/or the applicant's consultants. The fact that the property does not provide flood free evacuation will be noted on a Certificate issued in respect of the property under Section 149 of the Environmental Planning and Assessment Act 1979."

While the application is not for the erection of a dwelling-house, the same assessment principles apply. The proposal provides a plan identifying a building envelope on proposed Lot 542. It is a reasonable assumption to anticipate a proposal to construct a dwelling house on proposed Lot 542 in the future.

Any impact on flora and fauna

The site contains a portion of Endangered Ecological Communities (EEC - River Flat Eucalyptus) along the banks of Wyong Creek. The site of the indicative dwelling on proposed Lot 542 is at least 250 metres west of the vegetation communities.

Council's Ecologist reviewed the application and concludes that the boundary adjustment will not have a detrimental impact on the EEC.

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.

NSW Rural Fire Service (RFS)

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

The RFS have issued their General Terms of Approval subject to conditions of consent relating to asset protection zones, design and construction.

CONCLUSION

It should be noted that Council 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 a boundary adjustment between two existing lots where both lots are presently below the minimum subdivision standards subject to no additional allotments being created, and that the agricultural use of the land is not jeopardised and no additional dwelling entitlements are created.

Accordingly, as the application satisfies each of the above criteria Council has the delegation to determine the application. However, the DoP has notified Council in Circular No PS 08-014 that where variations in excess of 10% to a LEP provision occur, the application must be determined at a full Council meeting rather than under delegation.

The SEPP 1 objection is considered to be not well founded and fails to satisfy the test in *Winten Property v North Sydney Council*.

The proposed building envelope is located in an area of high hazard flooding with no low hazard escape route. The NSW Floodplain Development Manual does not support the creation of "islands" for future dwelling-houses in flood affected areas.

The boundary adjustment is considered to be inconsistent with the aims and objectives of the WLEP and the objectives of the 1(a) Rural Zone and is therefore recommended for refusal.

ATTACHMENTS

- | | | |
|---|---|-----------|
| 1 | Images of the subject allotments | D02212855 |
| 2 | Applicant's SEPP 1 Objection | D02283510 |
| 3 | Development Plans (A3 Black and White Enclosure | D02267897 |

Images of the subject allotments



Dwelling on lot 'A'



Shed and stabling on lot 54



Panorama of lot 54



Panorama of lot 54

DA No. 790/2009 Proposed Realignment of Boundaries between Lot A DP 100173 and Part Lot 54 DP 5987 No. 105 Yarramalong Road, WYONG CREEK.

STATE ENVIRONMENTAL PLANNING POLICY NO.1 Page 1 of 11

1. Planning Scheme to which the Objection Relates:

Local Environmental Plan 1991. (Zone No.1 (a) Rural Zone).

2. Planning policy to which the Objection relates:

Clause 14 (2) "A person shall not subdivide land ...so as to create an allotment having an area of less than ... 20 hectares".

3. Non-Conformity of Proposal:

The subject properties are currently 0.106 hectares (Lot A DP 100173) and 11.363 hectares in area (Part Lot 54 DP 5987). It is proposed to provide two allotments which are both less than 20 hectares, namely Lot 541 being 2.389 hectares and Lot 542 being 8.974 hectares.

4. Detail of Development Standard and Objection:

- i. **Is the Planning Control a Development Standard ? :**
The Planning Control is a Development Standard. See 1 and 2 above.
- ii. **What is the underlying Object or Purpose of the Standard ? :**
The underlying purpose (objective) of the standard is to protect and conserve rural and agricultural land and, if possible, maintain its efficient, sustainable and effective agricultural production potential. The standard effectively restricts fragmentation of the lands zoned 1a Rural by maintaining a minimum suitable size for economic agricultural activity or rural lifestyle homesteads. The zone provides a rural "buffer" to the nearby urban towns / suburbs of Wyong, Mardi and Tuggerah.
- iii. **Does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5 of the EPA Act ? :**
Relevant objects are as follows:
Object 5 (a) (i) is "to encourage the proper management, development and conservation of natural and artificial resources, including agricultural land.....for the purpose of promoting the social and economic welfare of the community and a better environment".
Object 5 (a) (ii) is "to encourage the orderly and economic use and development of land".
Object 5 (a) (vii) is "to encourage ecologically sustainable development".

**DA No. 790/2009 Proposed Realignment of Boundaries between
Lot A DP 100173 and Part Lot 54 DP 5987 No. 105 Yarramalong Road,
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As an overview, the development standard does not hinder the attainment of these objects abovementioned. The standard allows for management of rural lands which have sufficient area for ecologically sustainable agricultural activity with reasonable economic return. For most rural farming pursuits, favourable economic returns from smaller allotments would be improbable and be generally unsustainable, although some smaller rural businesses such as nurseries and tourist farms have potential for positive economic returns. See comments in item "v" below for existing industries in the Yarramalong Valley.

The standard has been implemented after significant fragmentation of the cadastre has already happened. Approximately 50% of the properties in the Yarramalong Valley are smaller in area than the required standard. Also, many of the properties in the upper part of the valley which comply with the standard, do not have significant cleared areas suitable for economic agricultural activity. Clearing of properties between Wyong Creek and Yarramalong has been generally restricted to the valley floors so a property with say 20 hectares often has less than 50% of its available area cleared and in use for agricultural activity. Historically, dairy farming was the main farming activity 50 years ago. Since then the land use of the area has gradually changed: intensive farming is no longer the dominant land use of the valley. Apart from turf farming and horse farming, there is no genuine agricultural activity being pursued for economic returns. There are no vegetable farms, citrus / nut farms or wholesale nurseries similar to those found in the Mangrove Mountain region. There are few properties that have sufficient pasture to commercially farm cattle. Hobby and lifestyle farms are now the dominant land use of the area. The locality is close to the urban centre of Tuggerah / Wyong and the Sydney / Newcastle Freeway and the area has become a sought-after area for rural lifestyle residences with resultant expensive land values.

The subject planning standard has been effective to arrest the continued fragmentation of rural properties and protect the heavily vegetated steep valley sides. However on planning grounds it is difficult to justify the planning standard on the retention of economically viable agricultural land. Other than the immediate locality the valley floor is generally too narrow for most modern agricultural pursuits.

**DA No. 790/2009 Proposed Realignment of Boundaries between
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- iv. **Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case ? :**
Both the existing allotments do not currently comply with the development standard. The sum total area of both allotments does not comply with the development standard. Both allotments were created under a different planning instrument in previous years. The development standard is deemed unreasonable in these circumstances. As abovementioned, it is difficult to justify the development standard on the grounds that the use of the land should be restricted to (intensive) commercial agricultural activity. The current major land use for the locality is rural residential lifestyle.

- v. **Is the objection well-founded ?**
In support of the objection, a number of issues are considered below:

DWELLING POTENTIAL FOR PROPOSED LOT 542:

Presently, there is no dwelling on Proposed Lot 542 (and no dwelling on Part Lot 54 DP 5987) but the application seeks to demonstrate that the vacant lot can sustain a form of residential development. A possible dwelling site is proposed with this objection and is shown on the diagram attached to this document. The proposed site has been discussed with Council's Planning Officer.

The site is well elevated above the floodplain to the north but is lower than the 1%AEP flood level advised by Council for the locality by approximately 1.6 metres. Council advise that the 1% AEP flood level was determined using information from a flood study carried out by a coal industry authority: the information remains unsubstantiated by flood records which apparently date back to nearly 1900. Not surprisingly, both existing lots are well below this flood level (9.59 metres AHD) and the dwellings on Lots A and B DP 100173 are both below the required minimum floor height (9.89 metres AHD) by about 1.3 metres. Issues of flooding are discussed more fully below but construction of any future dwelling with a minimum floor height on the designated area shown in the sketch is readily achievable. A number of dwellings nearby in the Yarramalong Valley have already been constructed with habitable floors 2 metres (and more) above the surrounding natural surface.

The site was determined by adoption of the minimum "rural" setback from the road boundary, adoption of the 10 metre wide side boundary setbacks from the adjoining western and eastern boundaries and the obvious extent of the existing "high" ground above the adjoining floodplain to the north.

The proposed site has a level and safe access to the adjoining Yarramalong Road. Town water is not available.

No. 790/2009 Proposed Realignment of Boundaries between Lot A DP 100173 and Part Lot 54 DP 5987 No. 105 Yarramalong Road, WYONG CREEK.

STATE ENVIRONMENTAL PLANNING POLICY NO.1 Page 4 of 11

Waste Water Assessment for Dwelling Site on Proposed Lot 542.

The subject site was assessed for On-site Effluent Disposal by "Mr. Troy McClelland" of "Douglas Partners P/L"; the report has already been submitted to Council. With some minor construction of surface drains and bunding near and around the proposed dispersion area, together with recommendation on the maintenance treatment for these drains / bunding, plus the surrounding vegetated areas and treatment tanks, the report concludes that disposal of domestic effluent is possible for this site and will not present a danger to future occupants or the surrounding community.

Rural Land Use Potential for Proposed Lot 541

The existing Lot A DP 100173 has no capacity for rural land uses. The lot is effectively used for residential purposes only and is surrounded by rural land parcels. The proposal will allow for some future rural land uses on Proposed Lot 541, albeit in a lesser capacity than is intended by the planning instrument. However, agistment of horses and small farm animals is possible with the subject proposal, and home industries such as nurseries can also be accommodated with this proposal as is demonstrated by a number of properties in close proximity to the subject lands. The application effectively removes one of the isolated residential allotments created under previous planning schemes.

AGRICULTURAL ASSESSMENT:

a. Dwelling Entitlements:

The subject application will not increase the potential for dwelling entitlements. Under the present planning standard a dwelling site on Part Lot 54 DP 5987 is permissible subject to proper consideration of the physical and environmental constraints of the land. The application has identified a site for proposed dwelling but there are few suitable sites available on Proposed Lot 542 which comply with the setbacks and provide safe access to Yarramalong Road, a suitable disposal area for domestic effluent and potential for a building with the required minimum habitable floor level. The proposed development will maintain existing dwelling entitlements.

b. Risk of Land Use Conflict:

The adjoining Lot 340 DP 730036 to the west of Proposed Lot 541 is part of the "Yarramalong Turf Farm". Present land use for Lot A DP 100173 (part of Proposed Lot 541) is purely residential: the existing residence has been there for about fifty years and has not posed a threat to the abovementioned turf farming activities.

**No. 790/2009 Proposed Realignment of Boundaries between
Lot A DP 100173 and Part Lot 54 DP 5987 No. 105 Yarramalong Road,
WYONG CREEK.**

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There is no other suitable land on Proposed Lot 541 for a dwelling. Likely land use for remaining part of Proposed Lot 541 is grazing / agistment for horses or a small nursery. The application does not propose any change to the existing dwelling on Lot A DP 100173. The area of Proposed Lot 541 is 2.389 hectares which is more than 10% of the minimum required by the planning standard.

With regard to a future dwelling on Proposed Lot 542, the identified site is elevated above lands used for agricultural activity (similar to the cottage on Lot 541) and does not constitute a risk to the future agricultural use of the floodplain to the north. See also comments in the geotechnical report by "Douglas Partners". With the exception of a large metal shed and some timber stables, the land is cleared. The site is well clear of the existing turf farm to the west and does not present permanent restrictions to typical primary industry development (for the locality) either on Proposed Lot 541, Proposed Lot 542 or Lot 2 DP 587932 to the east (used for grazing cattle).

Other than turf farming in the Wyong Creek locality, **intensive farming** activity in the Yarramalong Valley has diminished in recent years. There are a few specialist "tourist" farms which do not wholly rely farm production for income including the "Macadamia Nut Farm" (and café), the "Lavender Farm" and the "Amazement" Zoo together with a few small nurseries. Only a few citrus orchards now remain in the valley. Many of the properties in the upper part of the valley are heavily vegetated with native timber and understorey and are in use as rural residential lifestyle / hobby farms. Major land use for properties between Wyong Creek and Yarramalong is grazing pasture for cattle, alpacas and horse agistment: most of these are not sufficiently cleared or have suitable pasture for stand-alone commercial entities. There are also number of horse studs in the subject valley, together with some horse training facilities and riding schools, which appear to be commercially viable enterprises. In summary, whilst the planning standard (minimum of 20 hectares lot size) will prevent more fragmentation of the local cadastre, a majority of properties in the Yarramalong Valley do not need or use the amenity afforded by an area of 20 hectares. Current land use for Part Lot 54 DP 5987 is as grazing pasture for cattle. The owner advises that the area was once intensively farmed (corn, maize and similar crops to produce silage for dairy farming) but these farming activities ceased about 40 years ago. Turf farming has since become the dominant agricultural land use for the broader valley floor and there are a number of relatively large turf farms near or adjacent to the subject lands. The locality is situated within minutes of the Sydney / Newcastle Freeway and the local markets of Lake Macquarie, Wyong and Gosford Local Government Areas.

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Presently the larger property (Part Lot 54 DP 5987) provides the owner with access to water from Wyong River for the (family-owned) turf farm on the opposite (southern) side of the road: the owner advises that this is the current primary land use for the property.

Both proposed allotments are small for grazing enterprises: "to stand alone as a commercial agricultural enterprise", both lots "would need to be suitable to undertake some form of intensive activity such as cropping / fodder or intensive horticulture". As the land is generally floodplain, the soil is obviously suitable for some types of intensive farming including turf farms: see soil testing results for details of PH levels and salt content (it is acknowledged that many tests are required to determine suitability or otherwise for farming activities). The proposal to realign the boundaries will provide an existing residential property (Lot A DP 100173) with rural "acreage" for agistment, grazing / pasture or small nursery activity. It is acknowledged that any rural farming detrimental to the adjoining turf farm be avoided: however this does not pose any additional threat to existing or future rural activity on Part Lot 54 DP 5987. The proposal provides some potential for "stand-alone" agricultural activity on Proposed Lot 541 consistent with the planning standard: the proposal will change the capacity of Proposed Lot 541 to include rural land uses and **reflect the character of surrounding land parcels**. Currently the existing cottage on Lot A DP 100173 has no such potential. **The application will not create a precedent for small rural residential allotments**. Within the immediate vicinity (400 metre radius of the Yarramalong Road frontage) there are three existing lots with less area than Proposed Lot 541 (2.389 hectares): namely; Lot B DP 100173 (1145.7 square metres), Lot 1 DP 616352 (5060 squares metres) and Lot 5 DP 557014 (8094 square metres). Each of these lots is significantly smaller in area than Proposed Lot 541 and each is currently used for a dwelling and horse agistment. It is envisaged that a similar land use will be afforded to the Proposed Lot 541.

Affect on the existing rural land use of Part Lot 54 DP 5987 will be minor. Current land use for this property is grazing pasture for beef cattle which provides the current owner with a less than sustainable yearly return. However main use for Proposed Lot 542 is provision of water supply (from Wyong River) to a turf farm opposite the subject lands on Yarramalong Road. As such Proposed Lot 542 is presently part of the farming operations of a larger land parcel on the southern side of the road (Lot 2 DP 1000387). However Proposed Lot 542 still has potential for intensive agriculture such as turf farming, intensive horticulture, horse agistment, horse stud farming, and facilities for the training of horses and horse riding schools.

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Given that most of the land is already cleared, relatively flat in terrain and has a good supply of water in existing dams and Wyong River, Proposed Lot 542 will still provide amenity for rural land activity consistent with some of the more common land uses in the Yarramalong Valley. The current available cleared area of Proposed Lot 542 is comparable to a number of "agistment" or horse industry properties nearby or further west into the valley.

The boundary adjustment is unlikely to create problems relating to fencing standards, weeds, feral pests or increased bushfire hazards. The proposed boundary has been aligned along existing fencing, for paddocks already established. There will be no change to boundary fences west or east of the subject lands. With the exception of the curtilage area of Proposed Lot 541, all existing fencing is "timber post, wire and mesh" and is in relatively good repair. The realignment of the boundaries will require some additional fifty metres of new rural fencing. The paddocks in Proposed Lot 541 are well cleared and currently in use for grazing pasture.

c. Water Entitlement / Water Resource Lots 541/542:

Both lots have frontage and good access to Wyong River. Both lots have two dams each.

BUILDING POTENTIAL & FLOOD ASSESSMENT:

Items for assessment are the following:

• **Risk of Life for floods up to the Flood Planning Level:**

The current Flood Planning Level of 9.59 metres AHD is approximately 1.0 to 1.3 metres above the road formation level of Yarramalong Road which is the main evacuation route for a "flooding emergency" event. The existing dwelling on Proposed Lot 541 is approximately 1.3 metres below the Flood Planning Level; occupants would need to evacuate the dwelling well before the major flood event via Yarramalong Road and proceed to Wyong township or to high ground near the Sydney / Newcastle freeway. All existing dwellings in the immediate locality would need to evacuate in a similar manner with occupation of the rooftop being the only other alternative if access to higher ground is impassable. The flood level of any future dwelling erected on Proposed Lot 542 would be above the Flood Planning Level by a freeboard of 0.3 metres. Theoretically there would be no Risk of life for the occupants in dwelling set at this floor height should they choose to stay for this major flood event.

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- **Risk of Life for Floods greater than the Flood Planning Level:**
Flood events which are greater than the 1%AEP would totally inundate the valley floor with depths greater than 1.5 metres over the entire Yarramalong Road evacuation route. Risk of Life to all occupants of dwellings will be high. Only the rooftops of dwellings would provide temporary respite for such major events. Similarly potential for damage to property including dwellings and sheds will be high.
- **Flood Behaviour:**
The subject site is part of a 2.2 kilometre wide (and relatively flat) valley floor south of the banks of Wyong River. Generally speaking, wider floodways (wetted areas) lessen velocities and reduce depths. A lower floodplain 200 to 300 metres wide north of the dwelling on Proposed Lot 541 (and immediately south of Wyong River) is up to 3 metres lower than the dwelling. Occupants and, more particularly, rescue authorities would have good opportunity to assess the danger as this area inundates. As abovementioned depths on Yarramalong Road are likely to be in the order of 1.0 to 1.3 metres which would make it almost impossible for a normal urban vehicle to function at all and difficult for most 4WD vehicles and trucks to travel even short distances (without a snorkel exhaust). The NSW Government Development Manual Appendix B examines flood hazards. Floodwater is assessed as the product of velocity, V, of floodwater, and depth D. Council advise that the V * D value for the 1% AEP is 0.4 metres which is suitable for the safety of light structures (safe up to 1.0 metres) and wading, but unsafe for vehicle movement. The abovementioned manual advises that depths greater than 1.0 metres are categorized as high but may be reduced to low if an effective community plan is implemented.
- **Cumulative Effects of Development and Precedents Created:**
The subject application will not increase the potential for dwelling entitlements. Under the present planning standard a dwelling site on Part Lot 54 DP 5987 is permissible subject to proper consideration of the physical and environmental constraints of the land. The application has identified a site for proposed dwelling but there are few suitable sites available on Proposed Lot 542 which comply with the setbacks and provide safe access to Yarramalong Road, a suitable disposal area for domestic effluent and potential for a building with the required minimum habitable floor level. The proposed development will maintain existing dwelling entitlements. The proposed dwelling site is positioned on the higher ground of the valley floodplain. The geotechnical report by "Douglas Partners" recommends that any future dwelling and accompanying on-site effluent disposal area be built on a platform raised to at least the 20% AEP flood event level.

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Design of the platform should accommodate relatively flat batters to minimize afflux during the 1% AEP flood event, particularly in relation to the adjoining residence on Lot B DP 100173. Any future dwelling should be set at the required minimum floor height of 9.89 metres AHD.

Any future dwelling structure should be flood compatible and preferably erected on piers or support poles which are suitably embedded and braced.

The application will not create a precedent for small rural residential allotments. Within the immediate vicinity (400 metre radius of the Yarramalong Road frontage) there are three existing lots with less area than Proposed Lot 541 (2.389 hectares): namely; Lot B DP 100173 (1145.7 square metres), Lot 1 DP 616352 (5060 square metres) and Lot 5 DP 557014 (8094 square metres). Each of these lots is significantly smaller in area than Proposed Lot 541 and each is currently used for a dwelling, and two of the three, for horse agistment. It is envisaged that a similar land use will be afforded to the Proposed Lot 541.

• **Duration of Flooding:**

Council advise that the duration of this major event is not known and is subject to a number of factors including tidal cycles in Tuggerah Lakes and perhaps other local backwater considerations. Time of concentration for the maximum storm is approximately 24 hours.

• **Existing Floor Levels of Development:**

The floor height of the existing dwelling on Proposed Lot 541 is approximately 8.6 metres AHD which is 1.29 metres below the required minimum of 9.89 metres. Several dwellings nearby have floors constructed to a similar height. All these dwellings would be inundated during the 1% AEP event. Any future dwelling on Proposed Lot 542 would have a floor height constructed to the required minimum and would therefore be relatively unaffected by the 1 in 100 storm event.

• **Future Development:**

The Flood Planning Level (FPL) currently adopted by Council is unsubstantiated by observed and anecdotal flood evidence. The current owner has never seen water over Yarramalong Road at this location in the last 50 years and observed flood levels for a significant storm event in June 2007 suggests that the flood study upon which the FPL is based may not be wholly reliable. Notwithstanding the above, Council advise that further flood investigation of the Yarramalong Valley will be undertaken in the future. The current Flood Planning Level indicates that Yarramalong Road will be totally inundated to an average depth of 1.1 metres. All dwellings at this locality would be flooded to a depth of up to 1.0 metres.

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Evacuation of persons and stock will be required for the entire locality and plans need to be implemented well before the flood event peaks. Rooftops would provide the only refuge from the 1% AEP floodwaters for these dwellings. Likely impacts during the major storm event would include damaged fencing, damaged service and utility lines, eroded roads, ruined turf and other crops, loss of stock, water-damaged dwellings and pollution of stored drinking water.

Apart from education on evacuation processes during a major storm event, owners can be encouraged to construct fencing and other improvements in such a manner that likely flood damage is minimized. Wherever possible service lines and structures should be buried, and outbuildings should be constructed outside flowpaths and away from access drives. Evacuation routes for livestock should be formalized and constructed for efficient vehicular loading.

Any future dwellings should be constructed to the **required minimum floor height** of 9.89 metres AHD and be **flood compatible in design**. Any new dwelling should have preferably level and safe vehicular access to and from the building envelope.

• **Appropriate Flood Mitigation Work:**

If the FPL is correct, flood mitigation work on infrastructure in the subject locality would be difficult to design and expensive to construct. Elevation of Yarramalong Road to above the FPL would be very expensive and would adversely impact on the existing dwellings and improvements in the area. Construction of local levee embankments around existing dwellings may reduce private damage and / loss during the major storm event: any levee embankment would require design by a qualified hydraulic engineer to ensure that other properties are not affected by these works.

• **Recommendations for Foundations and Style of Development:**

Any future structure should be flood compatible. For any building within the proposed envelope on Proposed Lot 542 it is anticipated that a platform / embankment raised to the height of the 20% AEP flood event (or higher) is constructed with relatively flat batters. The lower habitable floor level of any dwelling should be constructed to the required minimum floor height of 9.89 metres AHD (as directed by Council). The proposed structure should be supported by piers or poles which are suitable embedded and braced. The design of the embedment, piers and bracing should be undertaken by a practicing structural engineer.

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• **Potential to Evacuate:**

Both the existing dwelling on Proposed Lot 541 and the building envelope on Proposed Lot 542 have level, safe access onto Yarramalong Road. As abovementioned, a lower floodplain 200 to 300 metres wide north of Yarramalong Road is up to 3 metres lower than the dwelling. Occupants and, more particularly, rescue authorities would have good opportunity to assess the danger as this area inundates. Evacuation would need to proceed well before the major flood event reaches peak levels. Yarramalong Road is in reasonable order for vehicular evacuation.

WORKS REQUIRED:

The subject application seeks a minor land redistribution (boundary realignment). Two lots will be created from two existing allotments. **Other than a minor filling of an earth dam, and approximately 50 metres of fencing, there are no works proposed with this development.** The vegetated corridor of Wyong River will remain unaltered. The cleared grazing lands will remain unaltered. There are no proposals to augment the existing dwelling, the shed / barn or timber stables on the subject properties, although a site for dwelling has been included for consideration at Council's request. No additional services are sought for this development. The proposed development will not generate any additional dwellings; no additional traffic movements on Yarramalong Road are anticipated with this application. **The development will not adversely affect the amenity or character of the locality.**

2.3 DA/44/2010 Proposed Boundary Adjustment at Dog Trap Road, Ourimbah

TRIM REFERENCE: DA/44/2010 - D02268002

AUTHOR: MG

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 Act (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.

Applicant	SJH Planning
Owner	L Goddard
Application No	44/2010
Description of Land	Lot 148 and 346 in DP 755227 Dog Trap Road, Ourimbah
Proposed Development	Boundary Adjustment
Site Area and zoning	Lot 148 = 11.84 hectares, 1(a) and 7(a)
Zoning Part 1 (a) Rural and Part 7(a) Conservation	Lot 346 = 12.14 hectares, 1(a)
Existing Use	Residences and flower farming

RECOMMENDATION

That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 with an indication that based on the information available to it, Council favours approval subject to appropriate conditions.

PRECIS

- The application involves the adjustment of the common boundary between two properties at Ourimbah. The subdivision standards contained within Clause 14 of Wyong Local Environmental Plan 1991 (WLEP) apply to the proposal.
- The subject allotments comprise rural agricultural zoning in part and Conservation zoning in part.

2.3 DA/44/2010 Proposed Boundary Adjustment at Dog Trap Road, Ourimbah (contd)

- The applicant proposes the use of State Environmental Planning Policy No 1 (SEPP 1) to vary the subdivision standards of WLEP. The lot/area variation is 18% to the minimum allotment requirement.
- Council delegation extends to assuming 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 to no additional allotments being created, the agricultural use of the land not being jeopardised and that no additional housing entitlements are created.

INTRODUCTION

The Site

The subject properties are located on the northern side of Dog Trap Road along the Ourimbah plateau. Much of the land (both lots) has been used for the production of flowers over the years, although the northern portion of lot 148 essentially remains in a natural state and reflects the conservation zone rather than the more dominant agricultural zone.

Dwellings and outbuildings including shade houses and several dams are located on both existing allotments.



Aerial view of site with proposed boundary in red

Locality Plan



The Proposal

The applicant seeks to adjust the property boundary to establish a more manageable land arrangement that complements the present use of the land. While both lots are presently held in the same ownership, they could in effect function independently and in separate ownership.

Presently, there is an imbalance in the distribution of outbuildings per allotment. The change in the boundary over a short section of the current common boundary would improve the circumstances to the point that each proposed parcel would retain appropriate buildings and water supply to enable each new allotment the possibility to operate as a single entity while either maintaining the same current land use or engaging in any other agricultural or rural pursuits.

It should be noted that the boundary adjustment does not alter the current residential use of either parcel with existing dwellings to be retained on their respective allotments.

The applicant seeks to use SEPP 1 to enable Council to vary the development standards of WLEP for the purpose of the boundary adjustment.

SEPP 1 is a planning policy established by the NSW State Government to make development standards more flexible. It allows Councils to approve a development proposal that does not comply with a development standard where it can be shown to be unreasonable or unnecessary in the circumstances of the case. The body of the report provides in-depth detail as to the merits of the application.

VARIATIONS TO POLICIES

Clause	13(3)(b)
Standard	10%
LEP	Wyong Local Environmental Plan 1991
Extent of variation/departure	18.13% for proposed lot 101 15.67 % for proposed lot 102
Departure basis	see report for detail

HISTORY

Lot 346 DP 755227

The original parcel of land was registered on 22 July 1892.

Lot 148 DP 755227

The land was registered on 22 July 1892.

Approved dwellings (1970 and 1991) and outbuildings exist on both properties. Agriculture has been undertaken for many years. Development Consent is not required for agriculture in the zone.

PERMISSIBILITY and RELEVANT STATE/COUNCIL POLICIES AND PLANS**State Environmental Planning Policies (SEPP's)**

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

However, the applicant has elected to use the provisions of SEPP 1 to enable Council to vary the development standards of WLEP for the purpose of the boundary adjustment.

The merit of the applicant's SEPP 1 is addressed in the body of the report. However, it is to be noted that the DoP has instructed Councils 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.

State Regional Environmental Planning Policies ("Deemed SEPP's")**(i) Sydney Regional Environmental Plan No 8**

The site is subject to Sydney Regional Environmental Plan No 8 – Central Coast Plateau Areas as identified under the Gosford/Wyong Local Environmental Plans mapping system. The policy was first gazetted in 1986 and applies to all of Wyong Shires 1(a) zoned land in the plateau regions of Kulnura and surrounding districts including Ourimbah.

The objectives of the policy are:

"The general aims of this plan are:

- (a) to provide for the environmental protection of the Central Coast plateau areas and to provide a basis for evaluating competing land uses,*
- (b) to encourage the use of land having a high agricultural capability for that purpose and, as much as possible, to direct development for non-agricultural purposes to land of lesser agricultural capability,*
- (c) (Repealed)*
- (d) to protect regionally significant mining resources and extractive materials from sterilization,*
- (e) to enable development for the purposes of extractive industries in specified locations,*
- (f) (Repealed)*
- (g) to protect the natural ecosystems of the region, and*
- (h) to maintain opportunities for wildlife movement across the region, and*
- (i) to discourage the preparation of draft local environmental plans designed to permit rural residential development, and*
- (j) to encourage the preparation of draft local environmental plans based on merits."*

The proposed boundary adjustment is considered to be consistent with the general aims and objectives of the plan.

(ii) Central Coast Regional Strategy

The Central Coast Regional Strategy (CCRS) 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. The proposal is consistent with the principles contained within the strategy.

Environmental Planning and Assessment Act 1979 (EP&A Act)

The application is subject to the heads of consideration under Section 79C of the EP&A Act 1979.

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).

NSW RFS responded by granting a “Bush Fire Safety Authority” under Section 100B of the Rural Fires Act.

Wyong Local Environmental Plan (WLEP) 1991

Lot 346 is wholly zoned 1(a) *Rural Agriculture* pursuant to Clause 10 of WLEP. Existing lot 148 is zoned part 7(a) *Conservation* and part 1 (a) ‘Rural Agriculture’.

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

The application is subject to several special provisions in the WLEP 1991. The specific clauses in the LEP 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 requirements of Clause 13(3) which provides general criteria for boundary adjustments. The body of the report addresses in detail compliance or non compliance with Clause 13(3).

Development Control Plan 2005 and Policies

Development Control Plan (DCP) No 2005:

Chapter No 67 – *Engineering* Guidelines for Engineering Works. Appropriate conditions to be imposed if approved.

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

ASSESSMENT

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

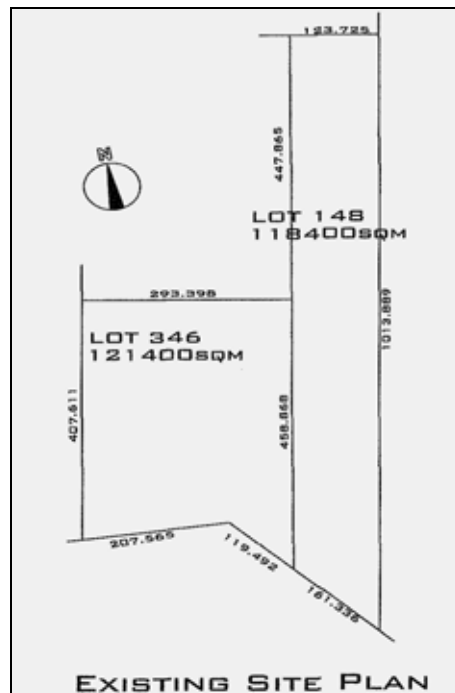
THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b)):

The following is the status of the current allotment arrangement and proposed arrangement.

The current lot status:

Lot 148 = 11.84 hectares 1(a) and 7(a) zoned

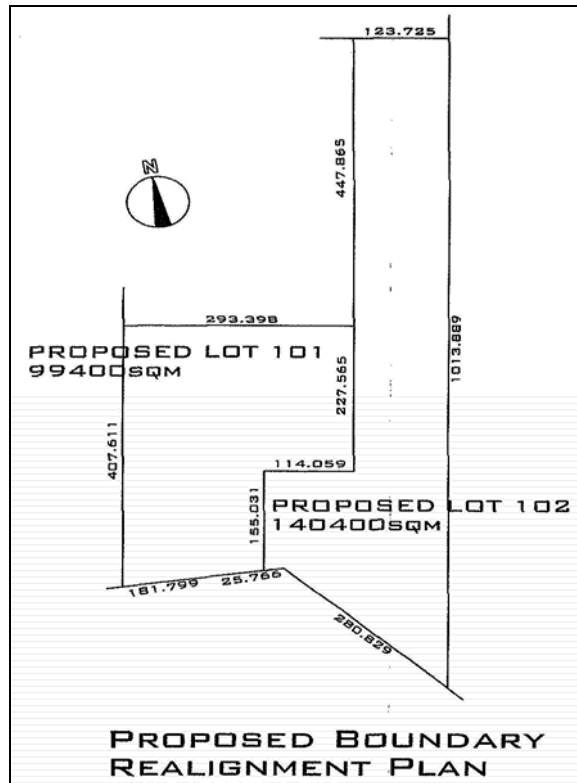
Lot 346 = 12.14 hectares 1(a) zoned



The proposed lot arrangement:

Proposed Lot 101, will result in a decrease in land area of 2.20 ha or 18.13% from the existing lot 346.

Lot 102, will result in an increase of land area of 2.20 ha or 15.67% to the existing lot 148.



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

Clause 13(3) states:

“Subdivision of land - generally

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.”*

The following comments are provided with regard to the provisions of clause 13(3)(a), (b) and (c).

(a) *Configuration*

The configuration is substantially the same in terms of providing two parcels of land essentially rectangular in shape. The proposed boundaries are considered to be compatible with rural land uses will not inhibit the continued use of the allotments for rural purposes.

(b) *Dimensional Compliance*

Both allotments represent a variation greater than 10% of their existing area.

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

(c) *Circumstances of the case*

The circumstances of the case reflect the desire to expand the rural/agricultural potential of existing lot 148 (smaller of the two lots) by including part of existing Lot 346. This aspect is discussed under the heading SEPP 1.

State Environmental Planning Policy No 1

SEPP 1 provides flexibility in the application of planning controls 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 has outlined the procedure for considering SEPP1 objections. The application is assessed in accordance with the guiding principles set by the Court as follows:

Is the planning control in question a development standard?

The provisions of Clause 13 (3) of WLEP constitute a "Development Standard" and can be varied under SEPP1.

The extent of departure to the maximum 10% variation in of Clause 13(3) is 18.13% for proposed Lot 101 and 15.67% for proposed Lot 102.

It should be noted that Council's delegation extends to assuming 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 standard subject to no additional allotments created, the agricultural use of the land not being jeopardised and that no additional housing entitlements are created.

2.3 DA/44/2010 Proposed Boundary Adjustment at Dog Trap Road, Ourimbah (contd)

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

What is the underlying object or purpose of the standard?

The purpose of the development 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.

The subject land exhibits a topography that features a broad expanse of rural land that has been historically a valuable commodity that supported the Wyong Shire community. Whilst the nature and scale of rural land use has changed over the years, land in the immediate area continues to offer some form of agricultural benefit with most properties undertaking flower, citrus or vegetable farming.

The applicant prepared an agricultural assessment which was subsequently reviewed by the Department of Industry and Investment (Division of Primary Industries, former DPI). The Department agreed that the boundary adjustment would have no detrimental impact on the rural capabilities of the land and therefore did not oppose the application.

In this regard the anticipated use of both allotments remains generally as it currently is namely flower farming.

It is considered that the proposal promotes good land management in terms of conserving the rural environment.

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

Both existing allotments do not currently comply with the minimum allotment size requirement. The sum total of both lots still fails to achieve the 20 hectare requirement.

Both lots were historically created some considerable time prior to the adoption of the WLEP. Property and lot layouts, particularly in the rural areas, generally came into existence through family tradition based on personal circumstances rather than good planning practices.

The current situation is that the infrastructure (sheds and other buildings etc) used in the flower production have never been rationalised to the respective allotments. This never presented any real problems given the shared ownership of the two properties. However, in order to rationalise the properties the boundary requires alteration. In this instance it would be difficult to rearrange the infrastructure to suit the present boundary parameters. It is considered better management to adjust the boundary to suit the site constraints.

Strict adherence with the development standard would be unreasonable or unnecessary in the circumstances of the case.

Is the objection well founded?

The applicant's SEPP 1 objection is considered as well founded with grounds for Council to approve the application.

In summary Council is able to support the Applicants' reasoning for the SEPP 1 objection and find appropriate argument to vary the standards of Clause 13(3) of the WLEP.

Impact to Agricultural Land - Sydney Regional Environmental Plan No 8

The site is subject to Sydney Regional Environmental Plan No 8 – "Central Coast Plateau Areas" as identified under the Gosford/Wyong Local Environmental Plan mapping system.

The applicant prepared an agricultural review of the provisions of SREP No 8 which was reviewed by the Department of Industry and Investment. The application has been assessed with consideration given to the aims and objectives of the policy.

The following is a comment on the boundary adjustment with respect to the policy:

2. Aims, objectives etc

(a) to provide for the environmental protection of the Central Coast plateau areas and to provide a basis for evaluating competing land uses,

Comment: The proposal does not promote any additional development entitlements and therefore is unlikely to detrimentally affect the environmental quality of the area.

(b) to encourage the use of land having a high agricultural capability for that purpose and, as much as possible, to direct development for non-agricultural purposes to land of lesser agricultural capability,

Comment: The proposal essentially rationalises the current land uses by realigning the common boundary to capture structures wholly within their respective allotments. The sharing of natural resources such as water would remain unchanged other than to alter or establish appropriate easements where necessary.

(c) (Repealed)

(d) to protect regionally significant mining resources and extractive materials from sterilization,

Comment: The site is not presently used in any capacity in the mining industry. Notwithstanding, the nature of the boundary adjustment is not likely to prejudice any future attempts to undertake extractive industry on the land.

(e) to enable development for the purposes of extractive industries in specified locations,

Comment: As per the previous point, the proposal is not likely to prejudice the future use of the land.

(f) (Repealed)

(g) to protect the natural ecosystems of the region, and

Comment: The proposal does not include any physical works and as such is not likely to cause any detrimental impact on the natural ecosystems of the region.

(h) to maintain opportunities for wildlife movement across the region, and

Comment: The proposal does not include any physical works and as such is not likely to cause any interruption to the present movement of wildlife throughout the area.

(i) to discourage the preparation of draft local environmental plans designed to permit rural residential development, and

Comment: The application is not intended to provide any increase in development potential beyond that permissible in the present zoning or beyond the current land capabilities

(j) to encourage the preparation of draft local environmental plans based on merits.

Comment: There is no necessity to prepare a draft LEP based on the minor nature of the boundary adjustment.

The Department of Investment and Industry indicated no objection to the proposal but did note a concern for water supply availability. This aspect was also noted in Council's initial assessment. The applicant has suggested that the water supply to both proposed allotments is balanced between the dams presently on site and the needs of each parcel and thus is adequate without the need for easements.

In this respect it is considered that the proposal is consistent with the policy objectives in that it protects the agricultural land and does not cause any undue environmental damage.

The access, transport and traffic management measures.

The present vehicle access arrangements remain intact.

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

No issues to report

The impact on utilities supply.

The present waste disposal systems remain intact and are wholly contained with the respective allotments.

The effect on heritage significance.

The properties do not contain any known sites of Aboriginal or European heritage significance.

Any effect on other land resources.

No issues to report

2.3 DA/44/2010 Proposed Boundary Adjustment at Dog Trap Road, Ourimbah (contd)

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

There are five dams on the site used in conjunction with flower production. Four of those dams are located presently on one single allotment (lot 346). The boundary adjustment creates a more balanced approach to water rights with lot 102 having two dams and lot 101 having three dams. The applicant notes that this provides a balance for water usage compared with the production envisaged from the new allotments.

It is noted that as the dams are linked by way of the natural land depression, there is no need to establish easements for drainage.

*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).*

Bush Fire

The subject site is partially affected by the risk of bush fire. The existing dwelling on Lot 148 (proposed Lot 102) is within the buffer fire risk vegetation. The dwelling on existing 346, (proposed Lot 101) is clear of any bush fire risk.

The application was referred to NSW RFS which responded with requirements for the maintenance of asset protection zones for each dwelling. It is recommended that the requirements of the RFS be included as conditions of approval.



"Eview" image with bush fire overlay. Boundary adjustment show as dashed line.

Flooding

The site is not affected by flooding. A series of dams and a defined water course are located on the site however, these do not impact on the proposed new boundary.

Site Stability

The site is referred to as exhibiting "Sydney Town" soil classification in accordance with the NSW Soil Landscape manual (CL Murphy 1993). If the application was a genuine subdivision (i.e., additional allotments creating dwelling and waste issues) then the issue of the impact to the land form would be important and thus the soil classification would be an integral part of the assessment if site disturbance was necessary.

Given that the application is merely the adjustment of the common boundary the issue is not significant. In any event, the site does not exhibit any apparent site stability issues.

*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.*

No issues to report

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

No issues to report

*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**.*

No issues to report

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

No issues to report

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**.*

NSW Rural Fire Service (RFS)

The proposed boundary adjustment was referred to the RFS for its concurrence under Section 91 of the EP&A Act 1979.

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

Department of Investment and Industry (DII)

The proposed boundary adjustment was referred to the Department of Investment and Industry (formerly Dept. of Primary Industry and incorporating former Dept. of Agriculture) for comment. The DII response was relied upon in assessing the application with respect to SREP 8.

CONCLUSION

It should be noted that Council 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 to no additional allotments created, that the agricultural use of the land is not jeopardised and that no additional housing entitlements are created.

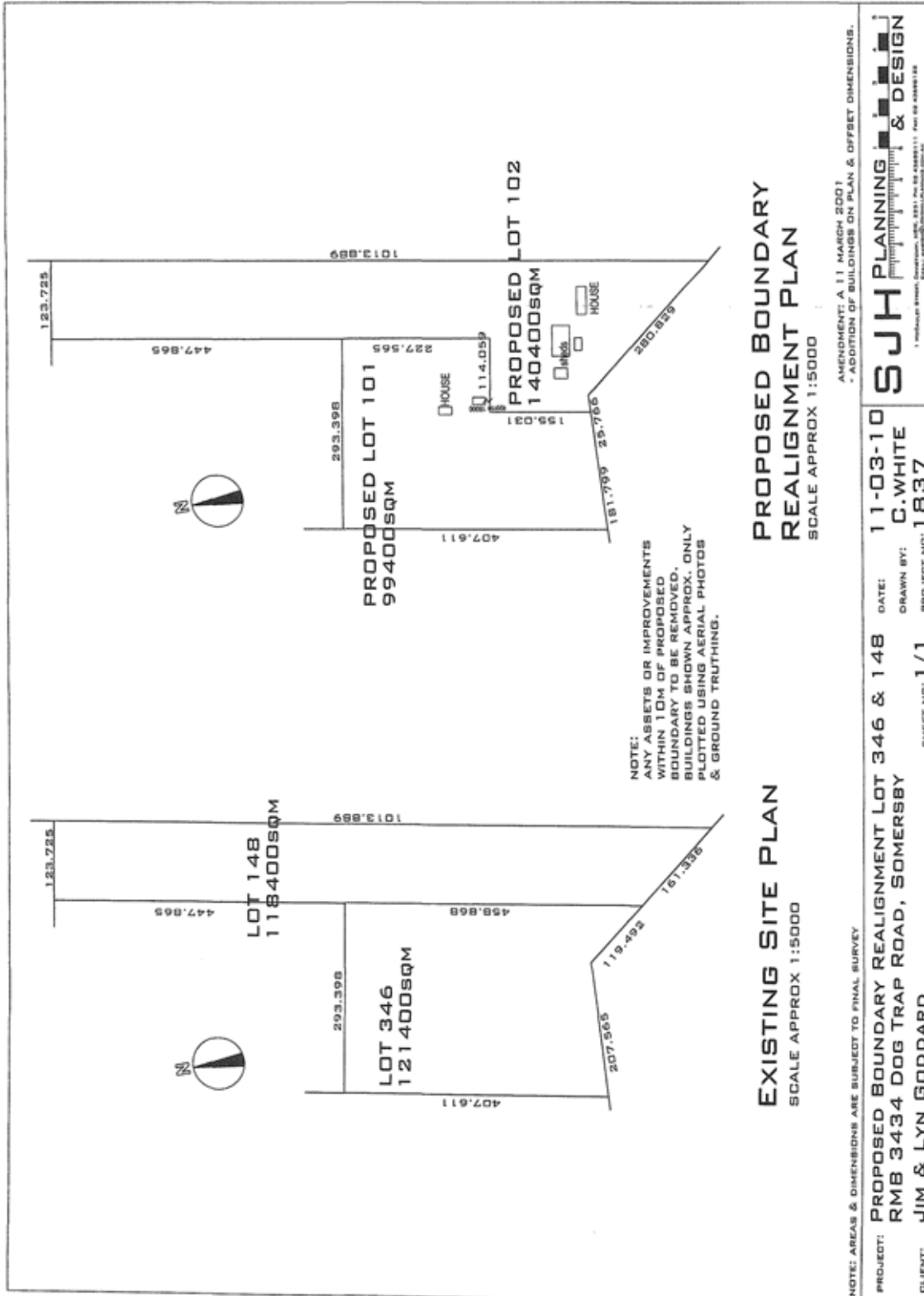
Accordingly, as the application satisfies each of the abovementioned criteria, Council has the delegation to determine the application. However it is to be noted that the DoP has instructed Councils in Circular No PS 08-014 that where variations in excess of 10% to a LEP provision occurs, the application must be determined at a Council meeting rather than at staff delegation level.

In respect to the merits of the application, it is considered that the proposed adjustment to the boundary does not jeopardise the intent of the agricultural zoning. The size (or shape) of the new allotments does not place any undue pressure on their ability to sustain rural land use. The present agriculture pursuits can continue on both allotments.

ATTACHMENTS

- | | | |
|---|------------------------------------|-----------|
| 1 | Boundary Adjustment Plan | D02257994 |
| 2 | Applicant's Objection under SEPP 1 | D02258000 |

Boundary Adjustment Plans



AMENDMENT: A 11 MARCH 2007
 - ADDITION OF BUILDINGS ON PLAN & OFFSET DIMENSIONS.

PROJECT: PROPOSED BOUNDARY REALIGNMENT LOT 346 & 148
 RMB 3434 DOG TRAP ROAD, SOMERSBY

CLIENT: JIM & LYN GODDARD

DATE: 11-03-10
 DRAWN BY: C. WHITE
 PROJECT NO: 1837

SHEET NO: 1/1

SJH PLANNING & DESIGN
 1 WINDSOR STREET, DUNEDIN, N.Z. 9051. PH: 03 4386311. FAX: 03 4386318
 EMAIL: sjhplanning@sjhplanning.co.nz

Applicant's objection under SEPP 1

**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:

Lots 148 & 346 RMB 3434
Dog Trap Road
SOMERSBY NSW 2250

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.

SJH PLANNING AND DESIGN PTY LD
ACN 134 715 076

2. Proposed Development:

The proposed development involves the realignment of property boundaries and is described in detail in the accompanying Statement of Environmental Effects.

3. Property Description:

Factors relevant to the sites physical and locational characteristics; existing and likely future built environmental and nearby and adjacent development are relevant to an assessment as to whether the requirement for strict compliance with an identified development standard is unreasonable or unnecessary, in this case: -

- areas and dimensions
- topography
- nearby surrounding development

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 of 10% of the existing site area of lots in "realignment" applications.

In this case, the areas of existing to proposed lots range from between 18.13% (decrease) and 15.67% (increase) in relation to Proposed Lots 101 and 102 respectively (see accompanying Statement of Environmental Effects and "before and after" plans).

The variation to development standards in each instance therefore is (about) 18%; in excess of a 10% permitted routinely and therefore requiring consideration under the provisions of State Environmental Planning Policy No. 1.

SJH PLANNING AND DESIGN PTY LD
ACN 134 715 076

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 surrounding each of the two (2) dwelling-houses and by attention to detail in the realignment the "placement" of the majority of existing assets on Proposed Lot 102.

Proposed Lot 101 as a consequence will contain some assets; will have the benefit of access to existing water infrastructure and vehicular access and where necessary such arrangements as might be required for easements for services and/or access that might arise.

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 18%.

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.

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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 within 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 the rational, orderly and economic utility of both parcels of land to be created in the proposal including the rational, orderly and economic utility of the assets, which exist on that land.

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)(1)(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."*

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ACN 134 715 076

Section 5.4 below demonstrates that the proposed development (with variations to existing site areas of about 18% of each of the proposed lots) is consistent with the underlying purpose of the provision of Clause No. 13(3) of the Wyong Local Environmental Plan 1991.

The proposed development will result in the creation of two (2) lots each of which detain areas similar to (although different from) the existing contiguous areas, but in a manner which reflects existing assets constructed/installed over time and, contemporaneously will provide for the continuation of the rural productive capacity of Proposed Lot 102 by the containment of the majority of assets relied on for the existing cut flower operation within that site.

Proposed Lot 101 (slightly smaller in area) maintains rural productivity potential and (because of the lot configuration proposed) will contain existing dwelling-house and therefore not result in the creation of any additional development rights.

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

The relevant objectives apply to the 1(a) Rural Zone are: -

"to protect, enhance and conserve agricultural land in a manner which satisfies its efficient, sustainable and effective agricultural production potential (emphasis added)".

The proposal most certainly fulfils this objective by providing for realignment of boundaries in a manner which will sustain the lands efficient, sustainable and effective agricultural production potential.

The proposal also satisfies the subordinate objectives of the Rural 1(a) Zone particularly with respect to the maintenance of the environmental quality of the land and the neutral impact on the regions water resources.

The proposal is also consistent with the 7(a) Conservation Zone objectives which aim primarily to restrict the type and scale of development (Zoned 7(a) Conservation) because of its (the lands) special aesthetic ecological or conservation values.

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ACN 134 715 076

No impact on any of the land Zoned 7(a) Conservation arises as a result of this realignment and accordingly, compliance with the general objectives of the land is able to be achieved.

Strict compliance therefore with the minimum area provisions and/or the variation provisions of Clause No. 13(3) is unreasonable and unnecessary in the circumstances as such compliance would tend to hinder in particular Objective 1(a) of the 1(a) Rural Zone because compliance with the 10% variation would require excision of certain of the existing infrastructure from Proposed Lot 102 thus reducing that parcels of lands efficient, sustainable and effective agricultural production potential.

For convenience a photocopy extract of the Council's Development Control No. 66 which contains extracts from the Wyong Local Environmental Plan is attached.

A review of the documentation contained within this State Environmental Planning Policy No. 1 Submission and the accompanying Statement of Environmental Effects will confirm that the proposal satisfies also the general objectives of the Council's Development Control Plan particularly in relation to the subdivision design reflecting: -

- the character of the locality;
- the pattern of subdivision reflecting natural features (and in this instance physical improvements); and
- the size, shape and design of the lots is appropriate for this individual Application.

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ACN 134 715 076

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.

SJH PLANNING AND DESIGN PTY LD
ACN 134 715 076

2.4 DA/93/2010 Single Storey Dwelling at 1B Cooranga Road, Wyongah

TRIM REFERENCE: DA/93/2010 - D02265489

AUTHOR: SVD

SUMMARY

An application as been received for the erection of a single storey dwelling at 1B Cooranga Road, Wyongah (Lot 2 DP 1068060). 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 reported to Council in accordance with Council's Resolution of 10 March 2010 regarding applications affected by the State Government's Sea Level Rise Policy.

Applicant	Mr W C Porter
Owner	Mr W C Porter
Application No	DA/93/2010
Description of Land	Lot 2 DP 1068060 (1B) Cooranga Road, WYONGAH
Proposed Development	Single Storey Dwelling
Site Area	765.2m ²
Zoning	2A Residential Zone
Existing Use	Vacant
Employment Generation	N/A
Estimated Value	\$194,750

RECOMMENDATION

That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours refusal of the application subject to appropriate reasons for refusal.

PRECIS

- The application seeks approval for the erection of a single storey dwelling house on a concrete slab.
- The site is zoned 2(a) Residential under the provisions of Wyong Local Environmental Plan 1991 (WLEP). A single dwelling is permissible with consent.
- The site is flood affected.
- The NSW State Government released its *Sea Level Rise Policy Statement* (Policy Statement) in 2009, applies to the development

2.4 DA/93/2010 Single Storey Dwelling at 1B Cooranga Road, Wyongah (contd)

- The 1% Annual Exceedence Probability (AEP) flood level for this property is RL 2.5m above Australian Height Datum (AHD). Scientific studies and State Government Policy in relation to climate change, and specifically Sea Level Rise (SLR), have been recently published which have the effect of raising floor levels through the imposition of an allowance for SLR applied to the existing base Tuggerah Lakes flood planning level.
- The new minimum floor level for this application is 3.6m above AHD, derived by adding the 0.5m freeboard and a 0.9m SLR allowance to the base flood level of 2.2m above ADH.
- A finished floor level of 3.6 metres AHD would result in the habitable rooms being approximately 1.2m above natural ground level (RL 2.4m).
- On 31 March 2010 Council staff corresponded with the applicant advising that the proposal must be amended to reflect a minimum habitable floor level of 3.6m AHD to comply with the NSW adopted Sea Level Rise Policy Statement.
- The applicant has been given the opportunity to amend the proposal to comply with the above legislative requirements however, has declined to amend the application and has requested the application be determined in its current form.

Options Table

Option	Implications
Approve Development Application as proposed by applicant.	<ul style="list-style-type: none"> • The development will not comply with the DECCW's <i>NSW Sea Level Rise Policy Statement</i>. • Will set an undesirable precedent. • Could result in legal issues for Council. • The development will not comply with Council's Flood Prone Land Development Policy.
Approve Development Application with a habitable floor level of 3.6 metres AHD.	<ul style="list-style-type: none"> • May result in unacceptable privacy, amenity and design impacts.
Council defer decision for redesign incorporating habitable floor level of 3.6 metres AHD.	<ul style="list-style-type: none"> • Added assessment time. • Redesign may result in unacceptable privacy, amenity and design impacts.
Refuse Development Application as recommended	<ul style="list-style-type: none"> • This is considered to be the most appropriate course of action. • The determination will be in accordance with Council's statutory obligations.

INTRODUCTION

The Site

The site is located at 1B Cooranga Road, Wyongah (Lot 2 DP 1068060); on the eastern side approximately 400 metres west of Tuggerah Lake.

The site consists of an irregular shaped allotment with a total area of 765.2m², is generally flat with an average ground level of 2.4 AHD, and currently vacant (Refer Figure 1 & 2).

The site contains Class 2 acid sulphate soils and is bushfire prone.

The 1% Annual Exceedence Probability flood level for the site is RL 2.5m above AHD.





Figure 1: Aerial photograph of 1B Cooranga Road, Wyongah and surrounds (including locality insert).



Figure 2: Current vacant site looking east from road boundary.

The Locality

The subject land is bound by vacant land to the north, south and west and by a recently constructed dwelling to the east. The area is characterised by generally low density residential development consisting mainly of smaller single storey detached dwellings.

The subject site and all Lotments generally to the south west are low lying and flood affected.

The Proposed Development

The proposal consists of a single storey dwelling-house involving the following features:

- A four bedroom dwelling (223.3m²) with FFL of 2.85m AHD;
- The dwelling comprises a double garage, four bedrooms - one with ensuite; open plan rumpus, family and kitchen area, living and dining area, bathroom and porch.
- Maximum ridge height 5.4m;
- Colorbond roof and face brick wall construction; and
- 3,500 litre rainwater tank.

HISTORY

- Lot 1 DP 805621 (2602m²) was subdivided into Lots 1, 2 and 3 DP 1068060 (785.9m², 765.2m² & 1051m² respectively) on 30 April 2004.
- 2 February 2010 the subject application was lodged with Council incorporating a habitable floor level of RL 2.85m AHD.
- 31 March 2010 Council requested the applicant to amend floor levels to 3.6m AHD.
- 14 April 2010 the applicant requested a determination be made on existing floor levels for the following reasons:
 - The Contractor will not build to the required floor level as they do not provide a bearers & joist type construction. For the applicant to meet the required floor level they will need to change builders and as such will lose their deposit.
 - The applicant has received quotes from other project home builders for a similar design using a bearers and joist construction with an approximate additional cost of \$25,000.
 - The actual "on-the-ground" construction cost difference between a slab on ground construction and a bearers and joist construction is minimal, however, a number of project home Builders add additional costs, should a client request bearers and joist construction.

The reality is that project home companies while filling an important role in the market, add substantial extra cost where clients wish to deviate from the standard "slab on ground" construction. However, this type of construction cannot be achieved without placing fill within the floodplain to enable the required floor levels to be achieved.

PERMISSIBILITY

The subject site is zoned 2(a) Residential under the WLEP. Pursuant to Clause 10 of WLEP, a dwelling-house is permissible with consent.

OBJECTIVES OF THE ZONE

Clause 2(3) of WLEP requires the consent authority to have regard to the aims and objectives of the WLEP when determining a development application. The following objectives of the 2(a) Residential Zone are relevant to the subject proposal:

“(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,”

The proposed single storey detached dwelling generally complies with the above objective.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- NSW Sea Level Rise Policy Statement
- NSW Flood Plain Development Manual
- State Environmental Planning Policy 71 (Coastal Protection)
- Wyong Local Environmental Plan 1991
- Development Control Plan 2005, Chapter 100 (Quality Housing)
- Development Control Plan 2005, Chapter 67 (Engineering Requirements)
- Development Control Plan 2005, Chapter 69 (Waste Management)
- Flood Prone Land Development Policy F5

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal is considered to be inconsistent with the following ESD Principles:

- The precautionary principle – the proposal does not account for inundation as a consequence of sea level rise.
- Inter-generational equity – the proposal does not have regard for maintaining the quality of the environment for future generations. The proposal would be highly vulnerable to risk of flooding which would potentially result in damage to the built environment.

Taking the above into consideration the proposal is considered to be inconsistent with the Ecologically Sustainable Development (ESD) principles.

ASSESSMENT

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

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

NSW Sea Level Rise Policy Statement

The NSW State Government released its *Sea Level Rise Policy Statement* (Policy Statement) in 2009, which sets benchmarks for sea level rise above 1990 mean sea levels of 400mm by 2050 and 900mm by 2100. The planning benchmarks have been derived from credible national and international projections of sea level rise, as explained in the technical note that accompanies the Policy Statement.

The Department of Planning recently released a draft "*NSW Coastal Planning Guideline: Adapting to Sea Level Rise*," which adopts the sea level rise planning benchmarks in the NSW Sea Level Rise Policy Statement and outlines a proposed approach to assist Councils, State agencies, planners and development proponents when addressing sea level rise in land-use planning and development assessment. It is based around the following six principles to guide sustainable development:

- (1) *Assess and evaluate coastal risks taking into account the NSW sea level rise planning benchmarks;*
- (2) *Advise the public of coastal risks and to ensure that informed land use planning and development decision-making can occur;*
- (3) *Avoid intensifying land use in coastal risk areas through appropriate strategic and land use planning;*
- (4) *Consider options to reduce land use intensity in coastal risk areas where feasible;*
- (5) *Minimise the exposure to coastal risks from proposed development in coastal areas;*
and
- (6) *Implement appropriate management responses and adaptation strategies, with consideration for the environmental, social and economic impacts of each option.*

The Policy Statement is intended to be used by Councils to assist in assessing the influence of sea level rise on new development and to incorporate the projected impacts of sea level rise in predicted flood risks and coastal hazards.

The Policy Statement provides:

The goal is to ensure that (development of land that is projected to be affected by sea level rise) recognises and can appropriately accommodate the projected impacts of sea level rise on coastal hazards and flooding over time, through appropriate site planning, design and development control.

2.4 DA/93/2010 Single Storey Dwelling at 1B Cooranga Road, Wyongah (contd)

The subject site is recognised as being flood affected. The current designated flood level (1% AEP) for the site is 2.5 metres AHD. The minimum floor level is 3.6m AHD, derived from adding the 0.5m freeboard and 0.9m SLR allowance to the base flood level of 2.2m AHD.

The survey plan accompanying the application indicates an average existing ground level of 2.4 metres AHD. In order to design the dwelling house to comply with the flood planning level incorporating sea level rise, the floor levels of habitable rooms in the development would be approximately 1.2 metres above the natural ground level.

Legal advice was presented to Council on 27 January 2010 by Tim Robertson S.C. In summary the issues outlined by Tim Robertson were:

- Council is legally required to apply the sea level rise benchmarks in the Policy Statement which was released in October 2009.
- Should Council fail to take into account the climate change considerations contained within the NSW Flood Plain Development Manual or the Coastline Management Manual, both which consider climate change, it will be unable to establish “good faith” in accordance with the defences provided by the *Local Government Act, 1993*. Council would also lose its protection under the *Civil Liability Act*.

Taking the above into consideration, the proposal is inconsistent with the principles within the Draft NSW Coastal Planning Guideline titled ‘Adapting to Sea Level Rise’ and therefore also **inconsistent** with the NSW Sea Level Rise Policy Statement

NSW FloodPlain Development Manual

The subject site is located within an existing low hazard flood area however in the future would be located within a high hazard flood area and the NSW FloodPlain Development Manual (‘The Manual’) requires that a safe (i.e. low hazard flooding) escape route be available for the residents. Given the location of the site and surrounding topography, there is no opportunity to provide a flood free escape route during a flood event. It is considered that a habitable floor level with an RL of 3.60m AHD would provide safe harbour and sufficient opportunity for residents to remain in the dwelling during a flood event or alternatively to enable rescue. However, this safe harbourage may potentially be for longer periods than currently experienced and residents may without power or sewerage servicing during this time.

The Manual further provides that a 0.5m freeboard is adopted for general residential development to provide a factor of safety ensuring that the risk exposure selected is accommodated. This freeboard includes a component related to climate change impacts on flood levels in both coastal and non-coastal areas and for a wide variation in sensitivity of estimated design flood levels as well as other unquantified factors such as wind-wave impacts. The freeboard provides only a relatively small allowance to accommodate some of the projected increases in rainfall intensity of flood-producing storm events associated with climate change, which has currently not been accurately quantified or included with the sea level rise projections. The Manual's small allowance for climate change in the 0.5metres freeboard figure should be considered to only address some of the uncertainty associated with estimating climate change impacts and as such should not be used to allow for sea level rise impacts, which should be quantified and applied separately.

Taking the above into consideration, the proposal is **inconsistent** with the requirements of the NSW FloodPlain Development Manual.

State Environmental Planning Policy 71 (Coastal Protection) (SEPP)

The provisions of SEPP No 71- Coastal Protection requires Council to consider the Aims and Objectives of the SEPP 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 with the subject property falling within this zone.

The aims of the policy are:

- (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) to ensure that the visual amenity of the coast is protected, and*
- (f) to protect and preserve beach environments and beach amenity, and*
- (g) to protect and preserve native coastal vegetation, and*
- (h) to protect and preserve the marine environment of New South Wales, and*
- (i) to protect and preserve rock platforms, and*
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the [Protection of the Environment Administration Act 1991](#)), and*
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- (l) to encourage a strategic approach to coastal management.*

The development is considered to be inconsistent with objective (j) due to the proposal not being ecologically sustainable and (l) due to insufficient consideration with regards to coastal management. Furthermore, the matters listed under Clause 8 have been considered with the proposal being generally compliant, with the exception of Clauses 8 (a) due to its inconsistency with the abovementioned objectives and (j) due to the likely impact of the development on the coastal processes.

Taking the above into consideration, the proposal is inconsistent with the requirements of SEPP 71 (Coastal Protection).

Development Control Plan 2005, Chapter 100 (Quality Housing)

Section 3.63 (c) of Quality Housing provides that:-

“A maximum height of 7 metres from natural ground level applies to the ceiling of the uppermost storey; and

A maximum height of 11 metres from natural ground level applies to the peak of the roof”

The single storey slab on ground dwelling as proposed or with a floor level of 3.6m AHD addressing Sea Level Rise would comply with the maximum ceiling and ridge height controls.

Whilst meeting the above objectives however - a floor level of 3.6m AHD may present future privacy issues with regards to elevated floor levels for living areas.

Taking the above into consideration the proposal in its current form is deemed **consistent** with the relevant provisions of Chapter 100, however would require certain privacy design elements to be included with any increased floor levels.

A complete assessment against Chapter 100 has been provided at Attachment 2.

Flood Prone Land Development Policy F5

Council's Flood Prone Land Policy prohibits “new development” in high hazard flood areas. The proposed development is not considered “new development” and as such is not prohibited.

As discussed earlier in the report, the Flood Planning Level for the site under Council's Flood Prone Land Development Policy is set at 3.0 metres AHD. The development proposes ground floor habitable floor levels of 2.85 metres AHD and therefore fails to meet this requirement.

Incorporating the sea level rise benchmark of 0.9m for the proposed development, raises the FPL plus 0.9m Sea Level Rise to 3.60 metres AHD with the proposed dwelling also failing to achieve this level.

Taking the above into consideration, the proposal is **inconsistent** with the requirements of Council's Flood Prone Land Development Policy F5.

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

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

The proposed development is considered acceptable in its appearance and in relation to the scale and massing of existing built structures in the immediate area. The development is domestic in scale and the proposed external materials and finishes are acceptable.

2.4 DA/93/2010 Single Storey Dwelling at 1B Cooranga Road, Wyongah (contd)

The access, transport and traffic management measures.

In the event of a designated flood (1%AEP), access to the subject property would be flooded to a depth of up to 100mm.

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

The site is identified as having Class 2 soils according to the Acid Sulphate Soils Planning Map. In accordance with WLEP Clause 15, a preliminary site investigation is justified where works are proposed which are likely to lower the water table - this is not applicable to the proposed development given that no excavation is proposed.

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

The site is subject to bushfire. Should the application be approved suitable conditions of construction should be applied.

Any social impact in the locality.

The proposed development placing both people and property vulnerable to flooding events is considered to be unacceptable.

Any economic impact in the locality.

The proposed development is considered likely to have negative economic impacts if it were to be approved by Council, as a result of reliance on emergency services personnel to assist occupants in the event of a flood, in rectifying flood damaged property, and placing greater demands on surrounding services and infrastructure in this locality in order to sustain the development in its vulnerable location.

Any impact of site design and internal design.

The site design is not considered appropriate in terms of the finished floor levels for habitable rooms as they fail to achieve the Policy Statement's minimum flood planning level as well as Council's current flood planning level.

Any cumulative impacts.

Allowing the proposed development contrary to the NSW State Government *Sea Level Rise Policy Statement* sea level rise planning benchmarks would contravene Council's obligation to consider certain matters as specified in Section 79C of the Act, including the likely impacts of the development, and the public interest.

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

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

As outlined earlier in this report, the proposed development is not considered suitable for the site given that the proposed floor level does not adequately address current flood planning levels or future sea level rise and the development would potentially result in adverse privacy, amenity and streetscape impacts if the floor levels were raised to incorporate the 2100 sea level rise planning benchmark.

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

As mentioned above, the low lying nature of the site creates the potential for frequent future flooding and is therefore not conducive to the proposed development.

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

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

The application did not require advertising in accordance with Clause 2.4. of DCP 2005 Chapter 70-Notification of Development Proposals as it generally complies with Chapter 100 – Quality Housing.

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

N/A

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

Any Federal, State and Local Government interests and community interests.

The information currently available to Council indicates that the site will likely be inundated if a designated flood event (1%AEP) occurs during the life of the proposed development. The information relied upon to make this prediction includes Council's flood studies and *NSW Government Sea Level Rise Policy Statement*. Having assessed the proposal in accordance with Council's Flood Prone Land Development Policy, the NSW Floodplain Development Manual and the projected sea level rise of 900mm by 2100, the development is considered unsuitable for the site. To permit the development on the basis of a lack of full scientific certainty with respect to sea level rise may result in lives and property being placed at risk.

CONCLUSION

The proposal has been assessed having regard to Section 79C of the EP&A Act, WLEP 1991, SEPP 71, NSW Sea Level Rise Policy Statement, DCP 2005 - Chapter 100 (Quality Housing), DCP 2005 - Chapter 69 (Waste Management), DCP 2005 - Chapter 67 (Engineering Requirements) and Flood Prone Land Development Policy and is considered unsatisfactory.

**2.4 DA/93/2010 Single Storey Dwelling at 1B Cooranga Road, Wyongah
(contd)**

The proposal is unacceptable in terms of the proposed 2.85m AHD floor level as not being sufficient with regards to the impacts of flooding and sea level rise.

It is therefore recommended that the application be refused.

ATTACHMENTS

- | | | |
|---|---|-----------|
| 1 | SEPP 71 - Compliance Table | D02257550 |
| 2 | DCP 2005 - Chapter 100 Compliance Table | D02257552 |
| 3 | Development Plans | D02277341 |

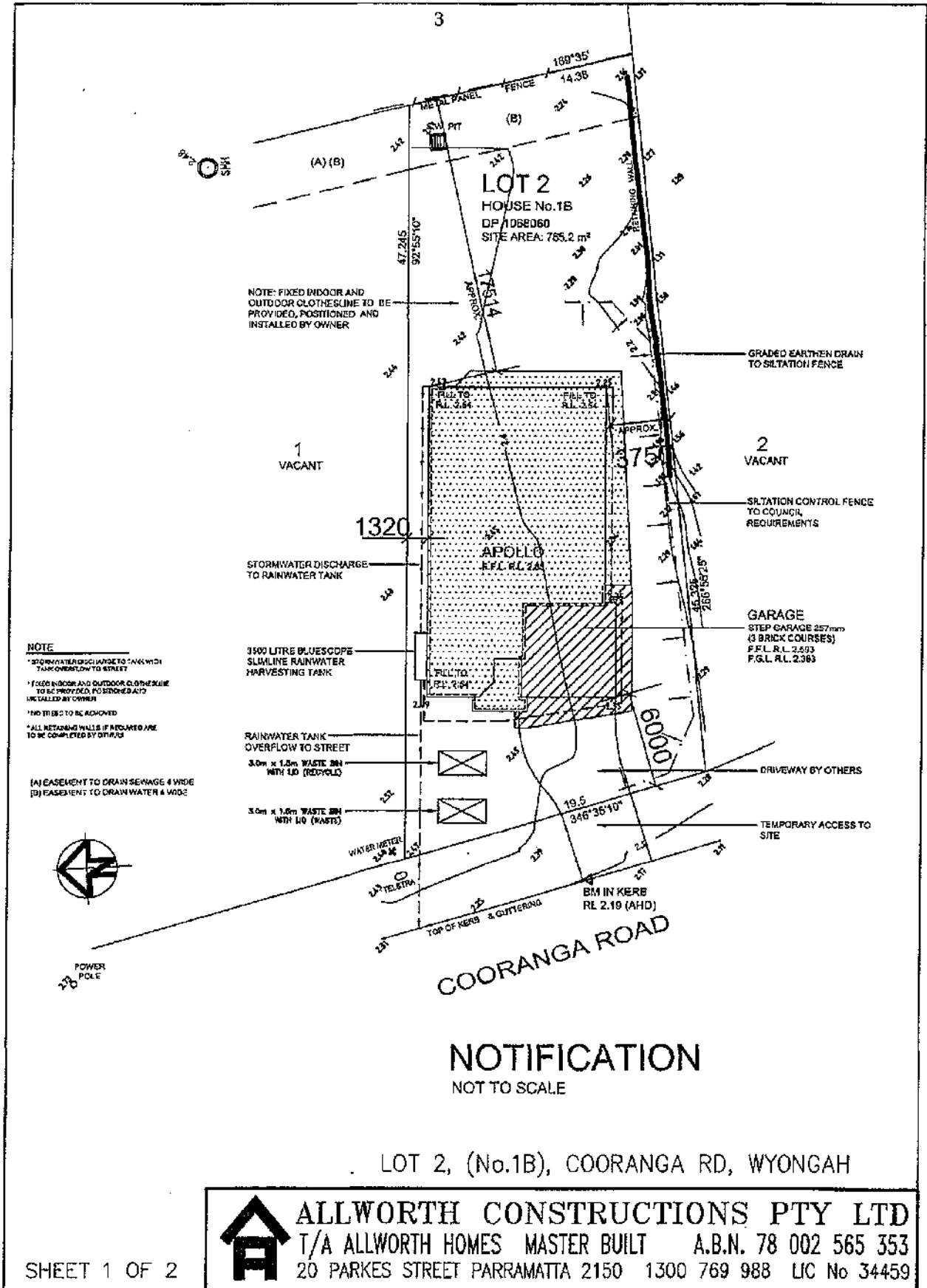
SEPP 71 – Compliance Table

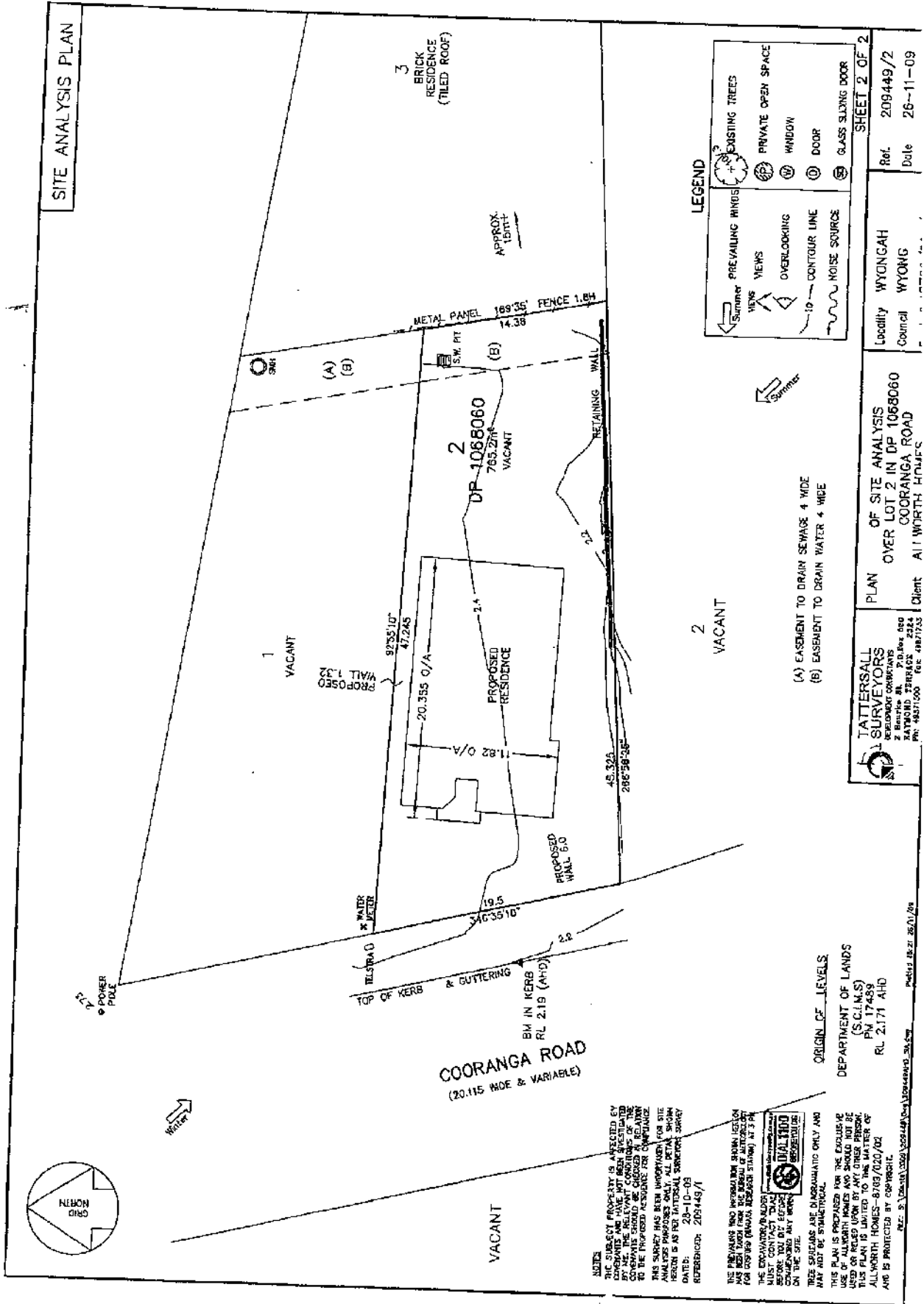
SEPP 71	Matters for Consideration	Proposed
Clause 8		
a	The aims of the Policy	As mentioned within the report, the proposal is inconsistent with objectives of the Policy.
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The proposal will not affect public access to nearby foreshore areas.
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The proposal does not provide new public access to the foreshore.
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The development is considered suitable for the location, and the proposal is considered suitable in terms of its relationship with the surrounding area.
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposal will no have no impact on the amenity of the coastal foreshore and public places given the location of the site and the type of development proposed.
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will have no adverse impact on the scenic qualities of the coastline.
g	Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.	The subject site does not contain any threatened species or their habitat.
h	Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no impact on the conservation of fish and marine vegetation or their habitat.
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	As mentioned within the body of the report, the proposal is likely to be affected by flooding through sea level rise.
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal has no impact on water-based coastal activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality.

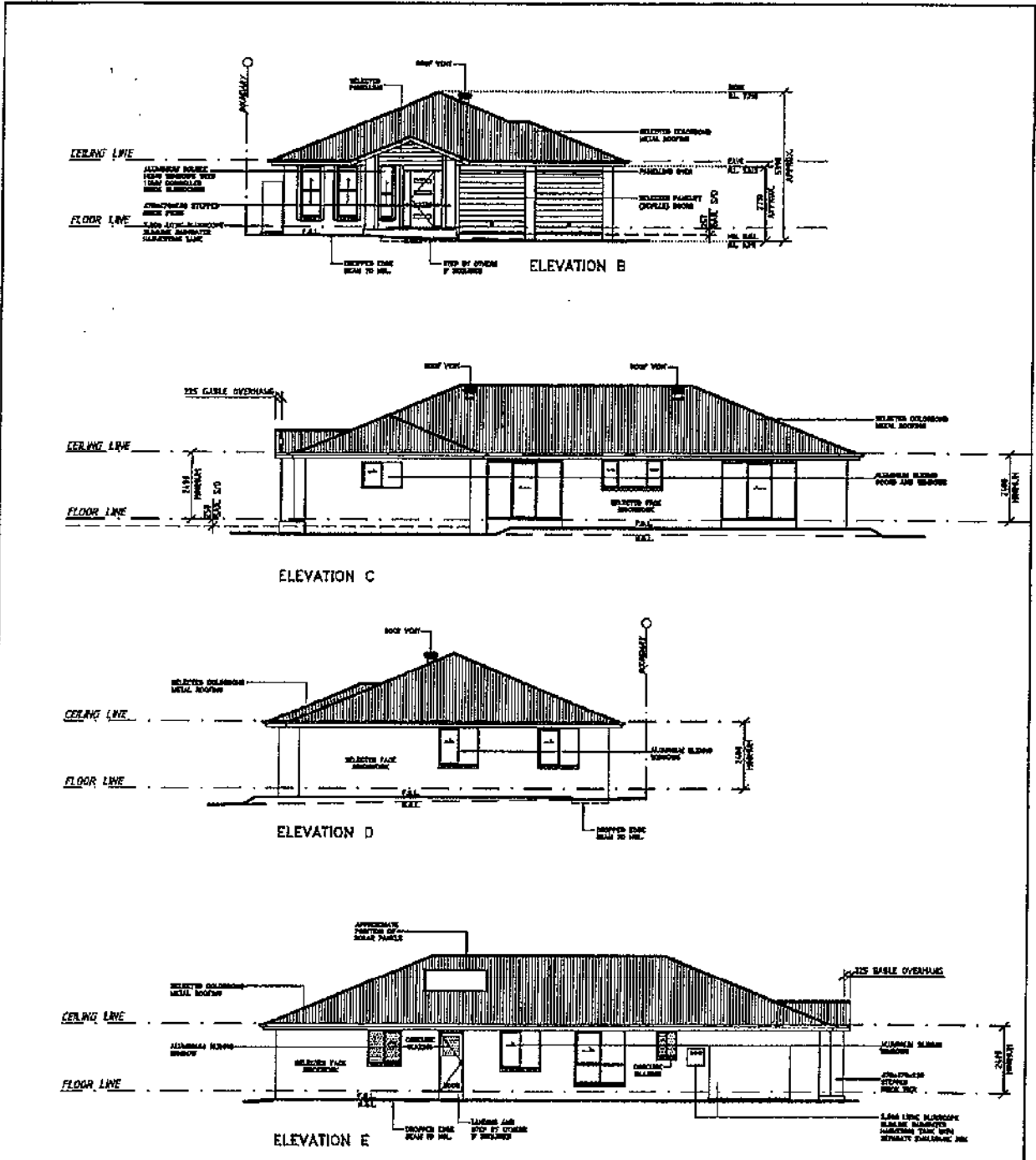
m	Likely impacts of development on the water quality of coastal water bodies.	The proposal will not adversely affect the downstream water quality.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The site does not contain any and will have no impact on items of heritage, archaeological or historic value.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.
p(i)	The cumulative impacts of the proposed development on the environment.	The proposal is not considered to have any adverse cumulative impacts on the environment.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	A BASIX certificate accompanies the application.

DCP 2005 – Chapter 100 Compliance Table

DCP 100 Development Standard	Required	Proposed	Compliance
3.3.3.g Cut & Fill Boundary retaining wall Cut (>1300mm setback) Fill (>900mm setback)	900mm 900mm DEB & max 600mm or 1:4 batter with 900mm setback	None Nil 50mm to 300mm	Yes Yes Yes
3.6.3.a Density (site coverage)	60% (459.12m ²)	29% (223.28m ²)	Yes
3.6.3.c Height	2 storey (or 3 on steep sites) 7m wall height (from NGL) 11m ridge height (from NGL)	1 storey 2.71m from NGL 5.39m	Yes Yes Yes
3.6.3.d Bulk and Scale	Max 10m unbroken wall (min 450mm run for 1.5m) Ridgelines	Max 20.3m along N elevation, however window treatment and one storey construction presents adequate articulated façade.	Yes
3.6.3.h Bushfire	Comply with PBFP 2006	Extreme = Level 3 construction	Yes
3.6.3.i Acoustic Design	Arterial road, airport, freeway or railway – acoustic report	N/A	N/A
3.7.3.c Tree Removal	As per DCP 114	No tree removal	Yes
3.8.3.b Flood affected	See report	See report	No
3.8.3.e Fencing	Front – 1.2m Side and rear – 1.8m	None proposed	N/A
3.8.3.f Carparking	Min 2 (1 covered 3m x 5.4m) Max 50% garage door (5.9m) Driveway – Min 2.5m	2 car garage 40% (4.8m) Min 4.4m	Yes Yes Yes
3.8.3.g Swimming pool	Not within front setback Min 1m setback (side & rear) Noise	N/A	N/A
5.2.1 DCP 99 Building Lines	Road – 4.5m (cat C) Side & Rear – 900mm	6m Min 1.32m	Yes Yes





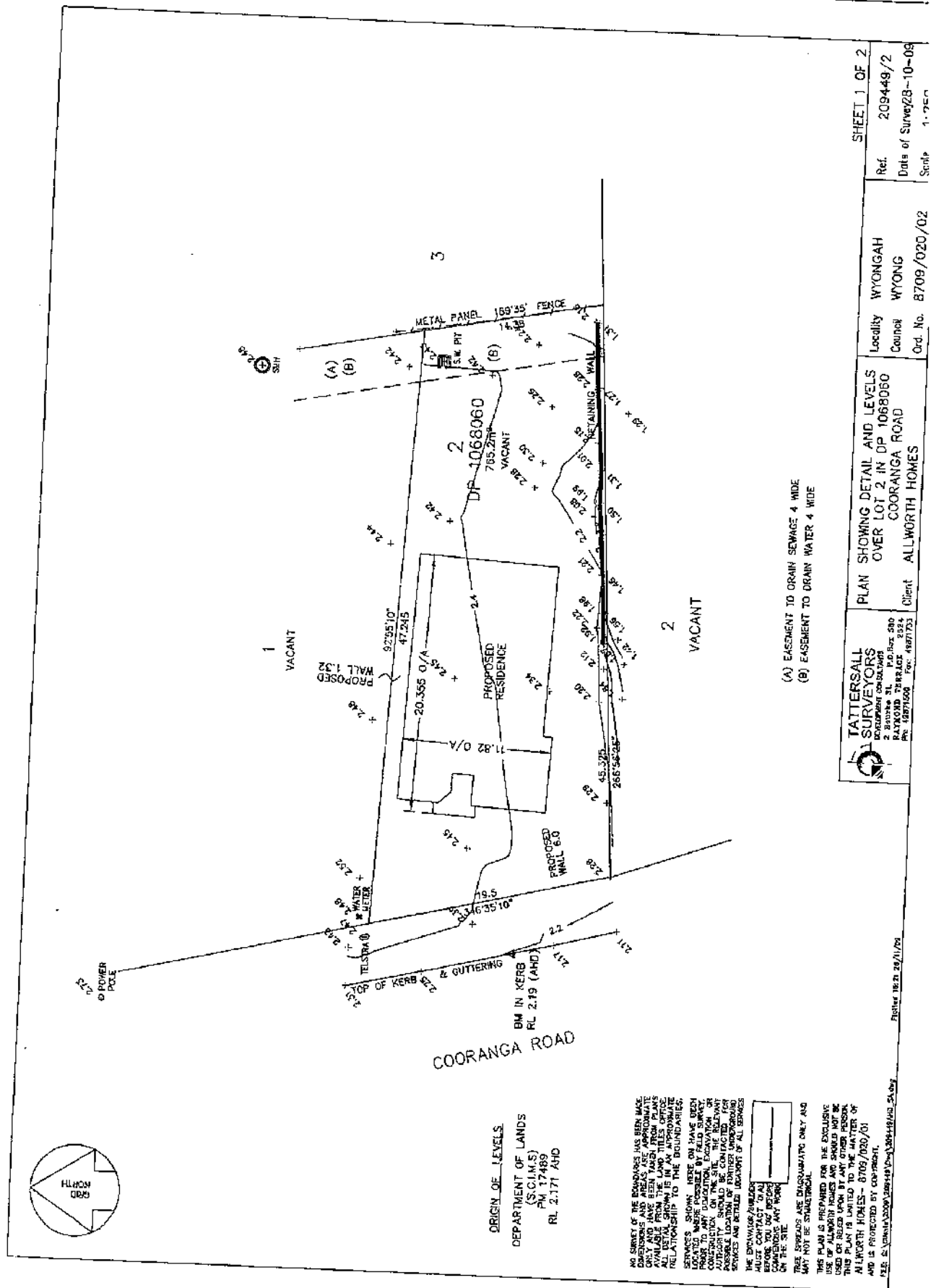


NOTIFICATION
NOT TO SCALE

LOT 2, (No.1B), COORANGA RD, WYONGAH

SHEET 2 OF 2

	ALLWORTH CONSTRUCTIONS PTY LTD T/A ALLWORTH HOMES MASTER BUILT A.B.N. 78 002 565 353
	20 PARKES STREET PARRAMATTA 2150 1300 769 988 LIC No 34459



SHEET 1 OF 2
 Ref. 209449/2
 Date of Survey 28-10-09
 Scale 1:750

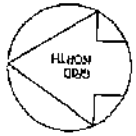
Locality WYONGAH
 Council WYONG
 Ord. No. 8709/020/02

PLAN SHOWING DETAIL AND LEVELS
 OVER LOT 2 IN DP 1068060
 COORANGA ROAD
 Client ALLWORTH HOMES

TATTERSALL
 SURVEYORS
 2 BOURNE ST. PO BOX 580
 RAYBROOK TERRACE PO BOX 2324
 Ph. 12871500 Fax. 4871723

(A) EASEMENT TO DRAIN SEWAGE 4 WIDE
 (B) EASEMENT TO DRAIN WATER 4 WIDE

Project 18.21.28/11/09



ORIGIN OF LEVELS
 DEPARTMENT OF LANDS
 (S.C.I.M.S.)
 PM 17489
 RL 2.171 AND

NO SURVEY OF THE BOUNDARIES HAS BEEN MADE
 CONVEYANCES AND AREAS ARE APPROXIMATE
 AVAILABLE FROM THE LATEST PLANS
 ALL DETAIL SHOWN IS IN AN APPROXIMATE
 RELATIONSHIP TO THE BOUNDARIES.
 SERVICES SHOWN HERE ON HAVE BEEN
 PROVIDED TO ANY DIMENSIONS BY FIELD SURVEY.
 CONSTRUCTION ON THE SITE. THE BOUNDARY
 POSSIBLE LOCATIONS TO BE CONTACTED FOR
 SERVICES AND RETIRED LOCATIONS OF ALL SERVICES
 THE ENGINEER/ARCHITECT
 MUST CONTACT TO ALL
 BEFORE YOU OR ANYONE
 FOR THE SITE.
 THESE SERVICES ARE DISCUSSING ONLY AND
 MAY NOT BE SHOWN.
 THIS PLAN IS PREPARED FOR THE EXCLUSIVE
 USE OF ALLWORTH HOMES AND SHOULD NOT BE
 USED OR REPRODUCED BY ANY OTHER PARTY.
 THIS PLAN IS LIMITED TO THE MATTER OF
 ALLWORTH HOMES - 8709/020/01
 AND IS PROTECTED BY COPYRIGHT.
 P.L.S. VISIT US ONLINE 2009/10/28/11/09/28/11/09

2.5 DA/66/2010 Two Storey Dwelling-house and Demolition of existing Structures at 26 Stewart Street, The Entrance North

TRIM REFERENCE: DA/66/2010 - D02265493

AUTHOR: SVD

SUMMARY

An application as been received for the erection of a two storey dwelling-house at 26 Stewart Street, The Entrance North. 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 reported to Council in accordance with Council's resolution of 10 March 2010 regarding applications affected by the State Government's Sea Level Rise Policy.

Applicant	Pretech Pty Ltd
Owner	Urusa Pty Ltd
Application No	DA/66/2010
Description of Land	Lot 8 DP 18519 (26) Stewart Street, The Entrance North
Proposed Development	Two Storey Dwelling and Demolition of Existing Structures
Site Area	580.60m ²
Zoning	2B Multiple Dwelling Zone
Existing Use	Single storey dwelling
Employment Generation	N/A
Estimated Value	\$220,000

RECOMMENDATION

That Council defer consideration of the application and request the applicant to redesign the proposal to incorporate a floor level of 3.6 metres ADH for the proposed dwelling-house.

PRECIS

- The application seeks approval for the erection of a two (2) storey dwelling-house.
- The site is zoned 2(b) Multiple Dwelling Zone under the provisions of Wyong Local Environmental Plan 1991 (WLEP). A single dwelling-house is permissible with consent.
- The site is wholly flood affected.
- The Department of Environment, Climate Change and Water's (DECCW'S) *NSW Sea Level Rise Policy Statement* applies to the development.

- The 1% Annual Probability (AEP) flood level at the subject property is 2.2m AHD (average flood depth 700mm over the site). Application of DECCW's sea level planning benchmarks raises the 1% AEP to 3.1m AHD (average flood depth increases to 1.6m over the site) and the addition of a 500mm free board results in a finished floor level (FFL) for habitable rooms set at 3.60m AHD. The proposed development does not meet this requirement.
- A FFL of 3.6 metres AHD would result in the habitable rooms being approximately 2.1m above natural ground level (RL 1.5m).
- The proposed floor level of the ground floor habitable rooms is 2.7 metres AHD which complies with the 2.7 metre AHD Flood Planning Level (FPL) for the site under Council's existing Flood Prone Land Development Policy (including 500mm freeboard).
- On 19 March 2010 Council staff corresponded with the applicant advising that the proposal must be amended to reflect a minimum habitable floor level of 3.6m AHD to comply with the NSW adopted Sea Level Rise Policy Statement.
- The applicant has been given the opportunity to amend the proposal to comply with the above legislative requirements, but has declined to amend the application and has requested the application be determined in its current form.

Options Table

Option	Implications
Approve Development Application as proposed by applicant.	<ul style="list-style-type: none"> • The development will not comply with the DECCW's <i>NSW Sea Level Rise Policy Statement</i>. • Will set an undesirable precedent.
Approve Development Application with a habitable floor level of 3.6 metres AHD.	<ul style="list-style-type: none"> • Dwelling will breach maximum 7 metre ceiling height requirement of Wyong DCP 2005 Chapter 100 giving rise to bulk and scale issues.
Council defer decision for redesign incorporating habitable floor level of 3.6 metres AHD.	<ul style="list-style-type: none"> • Allows staff to undertake an amended assessment. • Will set a positive precedence for future similar applications. • Will eliminate future sea level rise flooding problems.
Refuse Development Application as recommended.	<ul style="list-style-type: none"> • This is considered to be the most appropriate course of action. • The determination will be in accordance with Council's statutory obligations.

INTRODUCTION

The Site

The site is located at 26 Stewart Street, The Entrance North (Lot 8 DP 18519), on the northern side of Stewart Street approximately 220 metres west of the coastline and 400 metres east of the North Entrance Foreshore Reserve.

The site consists of a regular shaped allotment with a total area of 580.60m², is generally flat with an average ground level of 1.5 AHD, and contains an existing single storey cottage and other associated ancillary structures (Refer Figure 1 & 2).

The site is flood affected.

Locality Plan

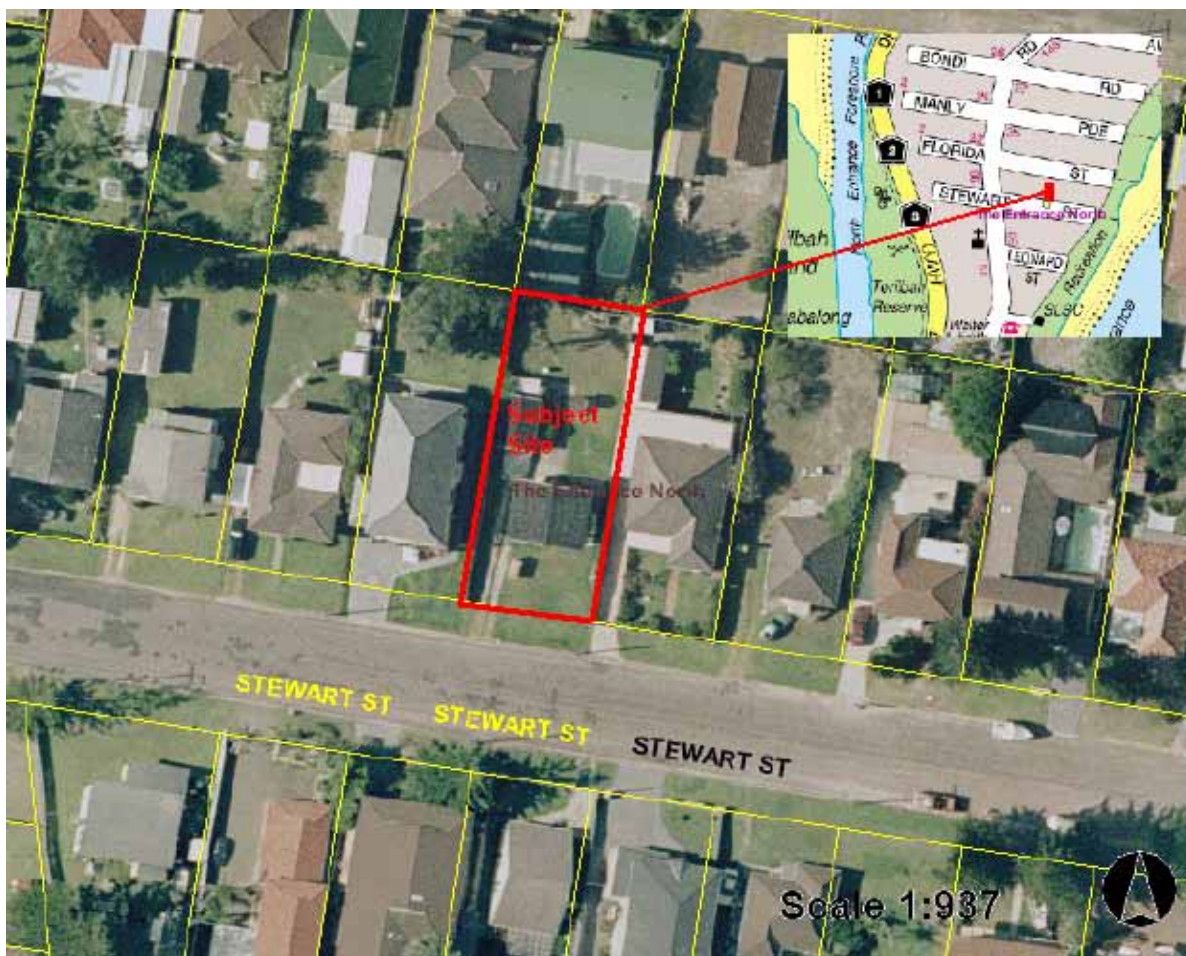


Figure 1: Aerial photograph of 26 Stewart Street, The Entrance North and surrounds (including locality insert).



Figure 2: Property frontage showing existing dwelling to be demolished.

The Locality

The subject site is bound on the north, east and west by single dwelling-house of one and two storey construction with a distinct building setback of between five and six metres being evident along this section of Stewart Street.

Existing development in the general surrounding area comprises a mix of single and two storey dwelling-houses, dual occupancies and multiple unit developments. The subject site and surrounding land at The Entrance North are low lying, with most of the area being flood affected.

No. 23 and No. 24 Stewart Street

Newer dwellings located at No. 23 and No. 24 Stewart Street have been built approximately one metre above the natural ground level presumably to meet the FPL of 2.7m AHD (Refer Figure 3 & 4). Both dwelling-houses whilst large in appearance, are still considered to be in keeping with the existing coastal character. In the case of No. 24, the elevated floor level has resulted in a dwelling which currently overlooks the subject site. Whilst this is not a desirable outcome, it is considered that appropriate design mitigation methods can be employed to sustain adjacent neighbour's privacy. It is believed that a good design can accommodate the existing FPL of 2.7m AHD plus 0.9m Sea Level Rise (3.6m AHD) whilst also achieving compatible amenity, solar access and privacy.

Accordingly, it is recommended that the Applicant be requested to redesign the proposed dwelling house to accommodate the required FPL of 2.7m AHD plus 0.9m accounting for Sea Level Rise.



Figure 3: No. 24 Stewart Street (left) and subject dwelling (right)



Figure 4: No. 23 Stewart Street

The Proposed Development

The proposal consists of a two Storey Dwelling-house development involving the following aspects:

- Average ground level of 1.5m AHD;

- Demolition of existing one-storey dwelling-house, garage and other minor structures;
- Four (4) bedroom dwelling-house (317.4m²);
- Ground floor: two car garage (1.7m AHD), guest bedroom with ensuite and walk in robe, open plan living, kitchen and dining area (2.7m AHD) with attached verandah and alfresco area, study and gallery;
- First floor (5.7m AHD): three bedrooms with ensuites and walk in robes and attached balcony to master suite and sitting room;
- Max ridge height 7.96m for western end of skillion roof pitch only;
- Mixture of cement rendered brickwork and Colorbond wall construction and Colorbond roofing; and
- Relocate driveway to western end.

The major issue for consideration relates to flooding and the application of the sea level benchmarks contained in the *NSW Sea Level Rise Policy Statement* (Policy Statement). The Policy Statement requires up to 0.9 m to be added to the existing FPL which requires the finished floor level (FFL) of habitable rooms within the dwelling to be set a minimum of 3.60m AHD, being 900mm higher than the development proposed by the applicant.

HISTORY

Nothing relevant or significant.

PERMISSIBILITY

The subject site is zoned 2 (b) (Multiple Dwelling Residential Zone) under the WLEP. In accordance with Clause 10, a dwelling-house is permissible with consent.

OBJECTIVES OF THE ZONE

Clause 2(3) of the WLEP requires the consent authority to 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(b) Multiple Dwelling Residential Zone are relevant to the subject proposal:

- (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 proposed detached dwelling consists of no more than two storeys and generally complies with the above objectives.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- NSW Sea Level Rise Policy Statement
- NSW Flood Plain Development Manual
- State Environmental Planning Policy 71 (Coastal Protection)
- Wyong Local Environmental Plan 1991
- Development Control Plan 2005, Chapter 100 (Quality Housing)
- Development Control Plan 2005, Chapter 67 (Engineering Requirements)
- Development Control Plan 2005, Chapter 69 (Waste Management)
- Flood Prone Land Development Policy F5

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal is considered to be inconsistent with the following ESD Principles:

- The precautionary principle – the proposal does not account for inundation as a consequence of sea level rise.
- Inter-generational equity – the proposal does not have regard for maintaining the quality of the environment for future generations. The proposal would be highly vulnerable to risk of flooding which would potentially result in damage to the built environment.

Taking the above into consideration the proposal is considered to be **inconsistent** with the Ecologically Sustainable Development (ESD) principles.

ASSESSMENT

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

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

NSW Sea Level Rise Policy Statement

The Department of Environment, Climate Change and Water (DECCW) published the *NSW Sea Level Rise Policy Statement* (Policy Statement) in 2009, which sets benchmarks for sea level rise above 1990 mean sea levels of 400mm by 2050 and 900mm by 2100. The planning benchmarks have been derived from credible national and international projections of sea level rise, as explained in the technical note that accompanies the Policy Statement.

The Department of Planning recently released a draft “*NSW Coastal Planning Guideline: Adapting to Sea Level Rise*,” which adopts the sea level rise planning benchmarks in the NSW Sea Level Rise Policy Statement and outlines a proposed approach to assist Councils, State agencies, planners and development proponents when addressing sea level rise in land-use planning and development assessment. It is based around the following six principles to guide sustainable development:

- (1) *Assess and evaluate coastal risks taking into account the NSW sea level rise planning benchmarks;*
- (2) *Advise the public of coastal risks and to ensure that informed land use planning and development decision-making can occur;*
- (3) *Avoid intensifying land use in coastal risk areas through appropriate strategic and land use planning;*
- (4) *Consider options to reduce land use intensity in coastal risk areas where feasible;*
- (5) *Minimise the exposure to coastal risks from proposed development in coastal areas; and*
- (6) *Implement appropriate management responses and adaptation strategies, with consideration for the environmental, social and economic impacts of each option.*

The Policy Statement is intended to be used by Council's to assist in assessing the influence of sea level rise on new development and to incorporate the projected impacts of sea level rise in predicted flood risks and coastal hazards.

The Policy Statement provides:

The goal is to ensure that (development of land that is projected to be affected by sea level rise) recognises and can appropriately accommodate the projected impacts of sea level rise on coastal hazards and flooding over time, through appropriate site planning, design and development control.

The subject site is recognised as being flood affected. The current designated flood level (1% AEP) for the site is 2.2 metres AHD, with a FPL of 2.7metres AHD being the inclusion of a 500mm freeboard requirement.

Incorporating the sea level rise benchmark of 0.9m for the proposed development, the 1% AEP increases to 3.1 metres AHD with a FPL of 2.7m plus 0.9m Sea Level Rise (3.6m AHD) being the inclusion of a 500mm freeboard requirement.

The survey plan accompanying the application indicates an average natural ground level of 1.5 metres AHD. In order to design the development to comply with the flood planning level with sea level rise, the floor levels of habitable rooms in the development would be approximately 2.1 metres above the natural and surrounding ground levels.

Legal advice was presented to Council on 27 January 2010 by Tim Robertson S.C. In summary the issues outlined by Tim Robertson were:

- Council is legally required to apply the sea level rise benchmarks in the Policy Statement which was released in October 2009.
- Should Council fail to take into account the climate change considerations contained within the NSW Flood Plain Development Manual or the Coastline Management Manual, both which consider climate change, it will be unable to establish “good faith” in accordance with the defences provided by the *Local Government Act, 1993*. Council would also lose its protection under the *Civil Liability Act*.

Taking the above into consideration, the proposal is inconsistent with the principles within the Draft NSW Coastal Planning Guideline titled ‘Adapting to Sea Level Rise’ and therefore also **inconsistent** with the NSW Sea Level Rise Policy Statement

NSW Flood Plain Development Manual

The subject site is located within an existing high hazard flood area and the NSW Flood Plain Development Manual (‘The Manual’) requires that a safe (i.e. low hazard flooding) escape route be available for the residents. Given the location of the site and surrounding topography, there is no opportunity to provide an escape route during a flood event. It is considered that a habitable floor level the first floor level, or preferably a ground floor level with an RL of 3.60m AHD would provide safe harbour and sufficient opportunity for residents to remain in the dwelling during a flood event or alternatively to enable rescue. However, this safe harbourage may potentially be for longer periods than currently experienced and residents would be without power or sewerage servicing during this time.

The Manual further provides that a 0.5m freeboard is adopted for general residential development to provide a factor of safety ensuring that the risk exposure selected is accommodated. This freeboard includes a component related to climate change impacts on flood levels in both coastal and non-coastal areas and for a wide variation in sensitivity of estimated design flood levels as well as other unquantified factors such as wind-wave impacts. The freeboard provides only a relatively small allowance to accommodate some of the projected increases in rainfall intensity of flood-producing storm events associated with climate change, which has currently not been accurately quantified or included with the sea level rise projections. The manual's small allowance for climate change in the 0.5metres freeboard figure should be considered to only address some of the uncertainty associated with estimating climate change impacts and as such should not be used to allow for sea level rise impacts, which should be quantified and applied separately.

Taking the above into consideration, the proposal is **inconsistent** with the requirements of the NSW Flood Plain Development Manual.

State Environmental Planning Policy 71 (Coastal Protection)

The provisions of State Environmental Planning Policy (SEPP) No 71 - Coastal Protection requires Council consider the Aims and Objectives of the SEPP 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 Department of Planning NSW with the subject property falling within this zone.

The aims of the policy are:

- (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and
- (e) to ensure that the visual amenity of the coast is protected, and
- (f) to protect and preserve beach environments and beach amenity, and
- (g) to protect and preserve native coastal vegetation, and
- (h) to protect and preserve the marine environment of New South Wales, and
- (i) to protect and preserve rock platforms, and
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the [Protection of the Environment Administration Act 1991](#)), and
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
- (l) to encourage a strategic approach to coastal management.

The development is not considered to be consistent with objective (j) due to the proposal not being ecologically sustainable and (l) due to insufficient consideration with regards to coastal management. Furthermore, the matters listed under Clause 8 have been considered with the proposal being generally compliant, with the exception of Clauses 8 (a) due to its inconsistency with the abovementioned objectives and (j) due to its likely impact on the development on the coastal processes.

Taking the above into consideration, the proposal is **inconsistent** with the requirements of State Environmental Planning Policy 71 (Coastal Protection).

Development Control Plan 2005, Chapter 100 (Quality Housing)

Section 3.63 (c) of Quality Housing provides that:-

“A maximum height of 7 metres from natural ground level applies to the ceiling of the uppermost storey; and

A maximum height of 11 metres from natural ground level applies to the peak of the roof”

The development as proposed complies with the maximum ceiling and ridge height controls. However, applying the FPL of 2.7m plus 0.9m Sea Level Rise (3.6m AHD) would result in the ceiling level of the dwelling exceeding the maximum permitted by 0.8m - giving rise to unacceptable bulk and scale impacts. It is considered that a good design can accommodate the existing FPL of 2.7m AHD plus 0.9m Sea Level Rise (3.6m AHD) and also address the issues of bulk and scale, privacy and solar access.

The tables below summarise the above.

Proposed Dwelling (habitable room RL 2.7)

	RL	DCP 100	Complies
First floor ceiling	8.4	Max RL 8.5 being 7m above NGL (NGL 1.5)	Yes
Ridge	9.46	Max RL 12.5 being 11m above NGL (NGL 1.5)	Yes

Dwelling with NSW Sea Level Rise Policy Statement (Policy Statement) with Sea Level Benchmarks Applied (RL 3.60)

	RL	DCP 100	Complies
First floor ceiling	9.3	Max RL 8.5 being 7m above NGL (NGL 1.5)	No. The ceiling exceeds maximum height limit by 0.80m. It is acknowledged that this non compliance could be resolved through re-design of the dwelling.
Ridge	10.36	Max RL 12.5 being 11m above NGL (NGL 1.5)	Yes

Taking the above into consideration the proposal in its current form is deemed **consistent** with the relevant provisions of Chapter 100, however does not meet the required FPL of 2.7m plus 0.9m Sea Level Rise (3.6m AHD).

A complete assessment against Chapter 100 has been provided at attachment 2.

When considering the built form of existing dwelling-houses on surrounding properties, it is considered that an exceedance of the height control under Chapter 100 may have merit in the circumstances.

Flood Prone Land Development Policy F5

As discussed earlier in the report, the FPL for the site under Council's Flood Prone Land Development Policy is set at 2.7 metres AHD. The development proposes ground floor habitable floor levels of 2.7 metres AHD and therefore meets this requirement.

Incorporating the sea level rise benchmark of 0.9m for the proposed development, raises the FPL of 2.7m plus 0.9m Sea Level Rise to a minimum floor level of 3.6m AHD.

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

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

The proposed development is considered acceptable in its appearance and in relation to the scale and massing of existing built structures in the immediate area. The development is domestic in scale and the proposed external materials and finishes are acceptable.

However, the proposal does not meet the required FPL of 2.7m plus 0.9m Sea Level Rise (3.6m AHD). If floor levels were raised to comply with this level, the development would sit approximately 2.1 metres above natural ground level potentially creating privacy, amenity and design concerns. It is considered that appropriate design mitigation methods could be employed to eliminate these concerns should a further application be lodged incorporating a finished floor level of 3.6m AHD.

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

The current gutter crossing access will be relocated from the eastern end to the western end.

The impact on utilities supply.

No issues to report under existing conditions.

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

The site is identified as having Class 2 soils according to the Acid Sulphate Soils Planning Map. In accordance with Wyong LEP Clause 15, a preliminary site investigation is justified where works are proposed which are likely to lower the water table. This is not applicable to the proposed development.

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

Flooding & Sea Level Rise

The Draft NSW Coastal Planning Guideline - Adapting to Sea Level Rise (DoP 2009) provides detail about the consideration of flooding and sea level rise information in land use planning and development assessment.

The proposal is contrary to the principles within the Draft NSW Coastal Planning Guideline titled including:

- Avoid intensification of land use in coastal risk areas;
- Minimising exposure to coastal risks for proposed development in coastal areas;
- Implementing appropriate management responses and adaption strategies, with consideration for environmental, social and economic impacts.

Over and above the sea level rise affect on the designated flood level there is also the prospect that the property will be regularly inundated by lake water day to day with the high tide.

A statistical analysis to establish the mean lake level was undertaken on the Tuggerah Lakes water levels between 1984 and 1989. This statistical analysis determined that once every twenty hours the lake level may be as high as 0.55metres AHD. When the predicted sea level rise is added to the lake level this means that at 2050 the lake level could increase up to RL 0.95metres AHD and at the 2100 lake level could increase up to RL 1.45metres AHD.

Based on the information above the adjacent road and front portion of the property (being at its lowest 1.34m ADH) has the potential to be inundated by Tuggerah Lakes without flooding, up to .09m deep with the high tide.

In times of flood, the Electricity Authority may be required to shut down the network in the flood areas where sewer pump stations are located due to inundation of flood waters.

The NSW Department of Health consider all flood waters as potentially contaminated and may contain untreated sewage. They advise that all unnecessary contact with flood waters should be avoided and children should be kept away from flood waters. This is pertinent to the safe evacuation of residents particularly children in deeper flood waters.

Approval of this development application in its current form would give rise to negative social and economic impacts, set an undesirable precedent and possibly result in liability issues for Council.

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

The proposed development is likely to place both people and property vulnerable to flooding events.

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

The proposed development is considered likely to have negative economic impacts if it were to be approved by Council, as a result of reliance on emergency services personnel to assist occupants in the event of a flood, in rectifying flood damaged property, and placing greater demands on surrounding services and infrastructure in this locality in order to sustain the development in its vulnerable location.

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

The site design is not considered appropriate in terms of the finished floor levels for habitable rooms as they fail to achieve the Policy Statement's minimum flood planning level.

*Any **cumulative impacts**.*

Allowing the proposed development contrary to the DECCW NSW Sea Level Rise Policy Statement sea level rise planning benchmarks would contravene Council's obligation to consider certain matters as specified in Section 79C of the Act, including the likely impacts of the development and the public interest.

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

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

As outlined earlier in this report, the proposed development is not considered suitable for the site given that the floor level does not adequately address sea level rise and the development could potentially result in adverse privacy, amenity and streetscape impacts if the floor levels were raised to incorporate the 2100 sea level rise planning benchmark. It is considered that appropriate design mitigation methods could be employed to eliminate these concerns should a redesign of the proposed dwelling be submitted incorporating a finished floor level of 3.6m AHD.

Whether the site attributes are conducive to development.

As mentioned above, the low lying nature of the site creates the potential for frequent future flooding and is therefore not conducive to the proposed development.

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 and no submissions were received.

Any submission from public authorities.

N/A

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

Any Federal, State and Local Government interests and community interests.

The information currently available to Council indicates that the site will likely be inundated if a designated flood event (1%AEP) occurs during the life of the proposed development. The information relied upon to make this prediction includes Council's flood studies and DECCW's *NSW Sea Level Rise Policy Statement*. Having assessed the proposal in accordance with Council's Flood Prone Land Development Policy, the NSW Floodplain Development Manual and the projected sea level rise of 900mm by 2100; the development is not considered suitable for the site. To permit the development on the basis of a lack of full scientific certainty with respect to sea level rise may result in lives and property being placed under threat.

CONCLUSION

The proposal has been assessed having regard to Section 79C of the EP&A Act, WLEP 1991, SEPP 71, NSW Sea Level Rise Policy Statement, DCP 2005 - Chapter 100 (Quality Housing), DCP 2005 - Chapter 69 (Waste Management), DCP 2005 - Chapter 67 (Engineering Requirements) and Flood Prone Land Development Policy and is considered unsatisfactory.

The proposal is unacceptable in terms of the proposed reduced levels of the ground floor habitable room levels. The proposed development has not been designed having sufficient regard to the impacts of flooding and sea level rise and would, if approved, unacceptably contribute to social disruption, economic costs and environmental impacts during a 1% AEP flood event up to the year 2100.

Approval of the development application would also set an undesirable precedent.

It is therefore recommended that the application be deferred for a redesign incorporating appropriate design mitigation methods to accommodate a habitable floor level of 3.6 metres AHD.

ATTACHMENTS

- | | | |
|---|---|-----------|
| 1 | SEPP 71 Compliance Table | D02258081 |
| 2 | DCP 2005 - Chapter 100 Compliance Table | D02258083 |
| 3 | Development Plans (A3) | D02267983 |

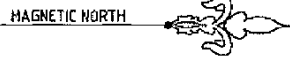
SEPP 71 – Compliance Table

SEPP 71 Clause 8	Matters for Consideration	Proposed
a	The aims of the Policy	As mentioned within the report, the proposal is inconsistent with objectives of the Policy.
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The proposal will not affect public access to nearby foreshore areas.
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The proposal does not provide new public access to the foreshore.
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The development is considered suitable for the location, and the proposal is considered suitable in terms of its relationship with the surrounding area.
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposal will have no impact on the amenity of the coastal foreshore and public places given the location of the site and the type of development proposed.
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will have no adverse impact on the scenic qualities of the coastline.
g	Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.	The subject site does not contain any threatened species or their habitat.
h	Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no impact on the conservation of fish and marine vegetation or their habitat.
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	As mentioned within the body of the report, the proposal is likely to be affected by flooding through sea level rise.
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal has no impact on water-based coastal activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality.

m	Likely impacts of development on the water quality of coastal water bodies.	The proposal will not adversely affect the downstream water quality.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The site does not contain any and will have no impact on items of heritage, archaeological or historic value.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.
p(i)	The cumulative impacts of the proposed development on the environment.	The proposal is not considered to have any adverse cumulative impacts on the environment.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	A BASIX certificate accompanies the application.

DCP 2005 – Chapter 100 Compliance Table

DCP 100 Development Standard	Required	Proposed	Compliance
3.3.3.g Cut & Fill Boundary retaining wall Cut (>1300mm setback)	900mm 900mm	None Nil – dwelling built to NGL	Yes Yes
Fill (>900mm setback)	DEB & max 600mm or 1:4 batter with 900mm setback	DEB with no outside fill	Yes
3.6.3.a Density (site coverage)	60% (348.4m ²)	49% (284m ²)	Yes
3.6.3.c Height	2 storey (or 3 on steep sites) 7m wall height (from NGL) 11m ridge height (from NGL)	2 storey 6.9m from NGL 7.96m	Yes Yes Yes
3.6.3.d Bulk and Scale	Max 10m unbroken wall (min 450mm run for 1.5m) Ridgelines	Max 10.62m along E elevation for garage, however window treatment presents articulated façade.	Yes
3.6.3.e Privacy/Overshadowing	<u>Privacy</u> : Proposed balconies and upstairs living areas are appropriately screened with tinted fixed glass or privacy louvers. <u>Solar Access</u> : 75% of POS to get 3 hours from 9am – 3pm (June 21) <u>Subject</u> : Given the orientation of the site 100% of rear POS will receiving 3 hours. <u>Adjacent</u> : Given the orientation of the site all adjoining properties will receive 3 hours solar access to POS.		Yes Yes Yes
3.6.3.h Bushfire	Comply with PBFP 2006	N/A	N/A
3.6.3.i Acoustic Design	Arterial road, airport, freeway or railway – acoustic report	N/A	N/A
3.7.3.c Tree Removal	As per DCP 114	No tree removal	Yes
3.8.3.b Flood affected	See report	See report	No
3.8.3.e Fencing	Front – 1.2m Side and rear – 1.8m	Existing	N/A
3.8.3.f Carparking	Min 2 (1 covered 3m x 5.4m) Max 50% garage door (7.6m) Driveway – Min 2.5m	2 car garage 34% (5.2m) Min 4.2m	Yes Yes Yes
3.8.3.g Swimming pool	Not within front setback Min 1m setback (side & rear) Noise	N/A	N/A
5.2.1 DCP 99 Building Lines	Road – 4.5m (cat C) Side & Rear – 900mm	5.9m Min 1.5m	Yes Yes



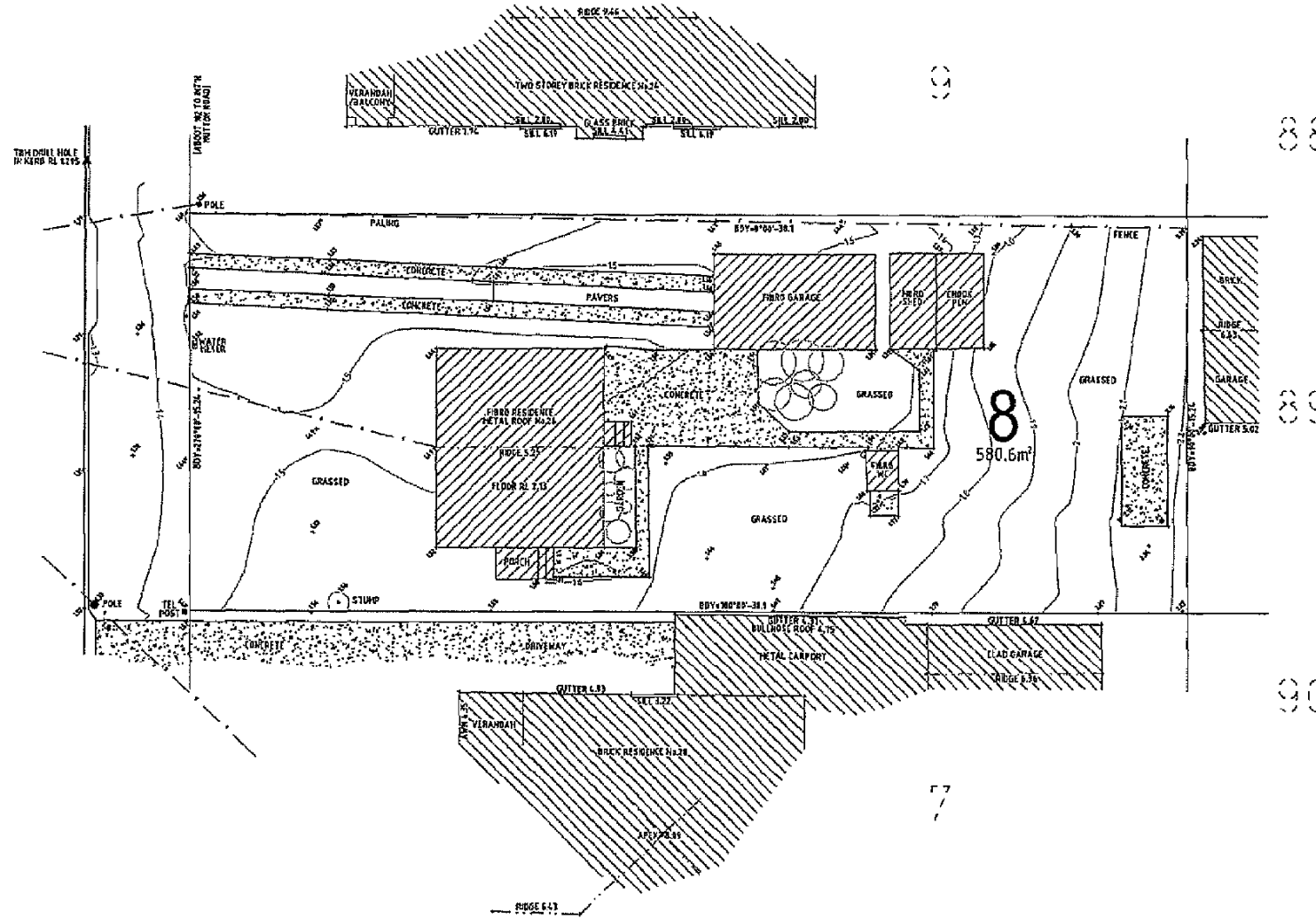
NOTES

- * THE TITLE BOUNDARIES OF THE PROPERTY HAVE NOT BEEN SURVEYED.
- * DIMENSIONS AND AREAS WHERE SHOWN HAVE BEEN TAKEN FROM DP 18519
- * SERVICES SHOWN HEREON HAVE BEEN LOCATED WHERE POSSIBLE BY FIELD SURVEY. IF NOT SO LOCATED, KNOWN SERVICES HAVE BEEN PLOTTED FROM THE RECORDS OF RELEVANT AUTHORITIES.
- * PRIOR TO ANY DEMOLITION, EXCAVATION OR CONSTRUCTION ON THE SITE, THE RELEVANT AUTHORITY SHOULD BE CONTACTED FOR POSSIBLE LOCATION OF FURTHER UNDERGROUND SERVICES NOT SURVEYED.
- * CONTOUR INTERVAL = 0.1 METRES
- * THIS DETAIL SURVEY IS NOT A "SURVEY" AS DEFINED BY THE SURVEYING ACT, 2002. IF ANY CONSTRUCTION IS PLANNED IT WOULD BE ADVISABLE TO CARRY OUT FURTHER SURVEY WORK TO DETERMINE THE BOUNDARY DIMENSIONS.
- * THESE NOTES ARE AN INTEGRAL PART OF THE PLAN.

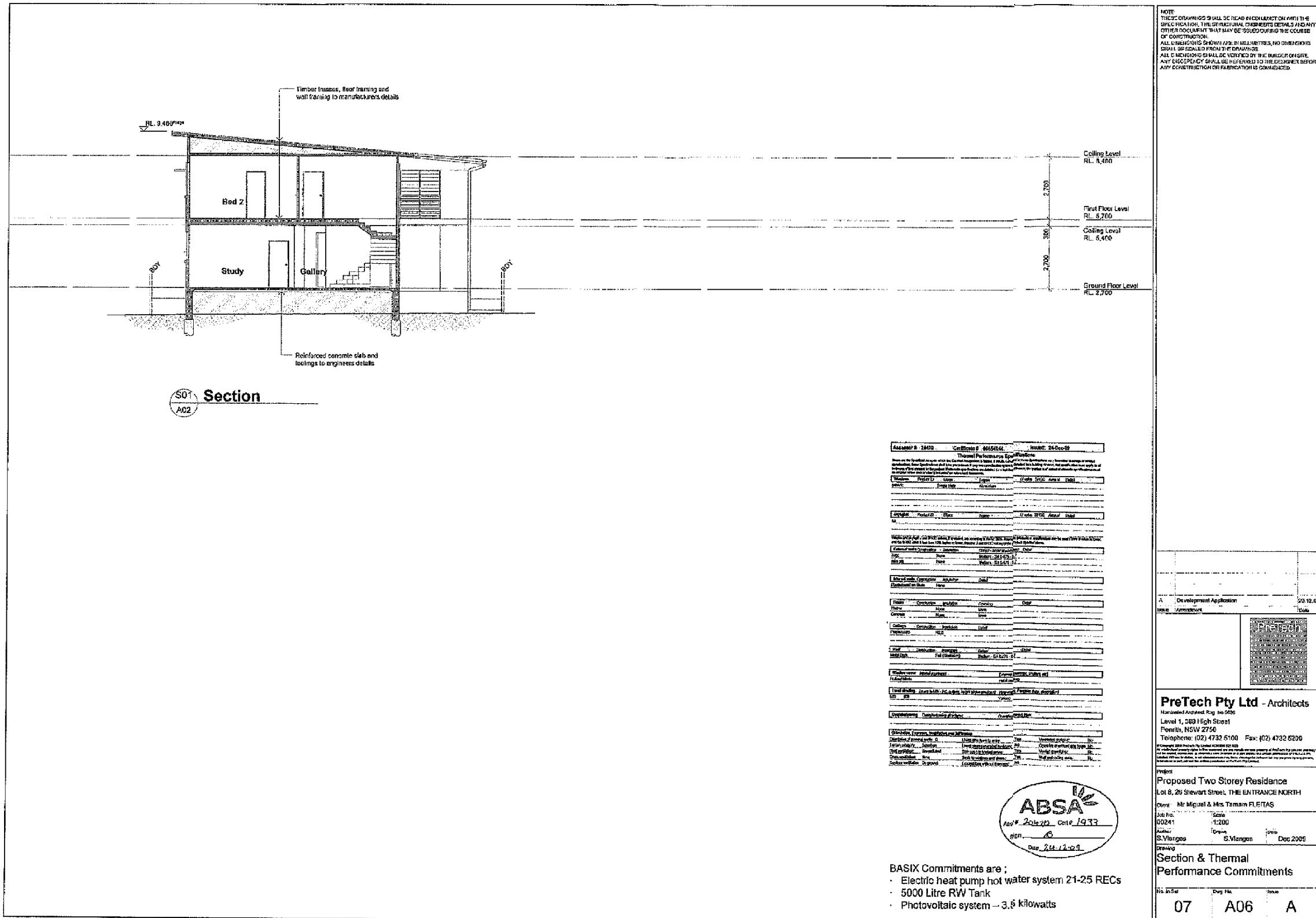


DECLARATION
 THE RESPONSIBILITY WILL BE ACCEPTED BY T GRABARA & ASSOCIATES IF ANY PART OF WHOLE OR THE PLAN IS NOT CORRECT, FALSE, INACCURATE, NOT TRUE, USED OR MISAPPLIED IN ANY WAY.

STEWART STREET



 <p>T GRABARA & ASSOCIATES A DIVISION OF T GRABARA PTY LTD ABN 890 227 966 SURVEYORS & DEVELOPMENT CONSULTANTS No.36 KING STREET, ST MARYS NSW 2160 PO BOX 54 ST MARYS NSW 1190 DX 29890 ST MARYS Phone: (02) 9833-2133 Facsimile: (02) 9823-0131 Email: tga@grabara.com.au</p>		METREAGE: 3813 DATE: August 20, 2009 SCALE: 1:100 DRAWN: ANDREW JONES CHECKED: PHILIP DE VRIES	LOCALITY: THE ENTRANCE NORTH LGA: WYONG SHEET 1 OF 1 SHEETS REVISION: 3133-REV PLAN OF LEVELS AND CONTOURS OF LOT 8 DP 18519 BEING No.26 STEWART STREET, THE ENTRANCE NORTH FOR Mr RIGUEL FLEITAS
	LOCALITY: THE ENTRANCE NORTH LGA: WYONG		



NOTE:
 THESE DRAWINGS SHALL BE READ IN CONJUNCTION WITH THE
 SPECIFICATION, THE STRUCTURAL ENGINEERS DETAILS AND ANY
 OTHER DOCUMENT THAT MAY BE DEVELOPED DURING THE COURSE
 OF CONSTRUCTION.
 ALL DIMENSIONS SHOWN ARE IN METRES, NO DIMENSIONS
 SHALL BE SCALED FROM THESE DRAWINGS.
 ALL DIMENSIONS SHALL BE VERIFIED BY THE BUILDER OR SITE
 ANY DISCREPANCY SHALL BE REFERRED TO THE ARCHITECT BEFORE
 ANY CONSTRUCTION OR FABRICATION IS COMMENCED.

Assessor: 2403		Certificate: 665604		Issue: 24-Dec-09	
<p>These are the specified details for the proposed development. They are intended to provide a guide to the construction of the development and are not intended to be used as a substitute for the detailed specifications and drawings of the proposed development.</p>					
Item	Part 1	Part 2	Part 3	Part 4	Part 5
1	1	1	1	1	1
2	1	1	1	1	1
3	1	1	1	1	1
4	1	1	1	1	1
5	1	1	1	1	1
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50	1	1	1	1	1



- BASIX Commitments are ;
- Electric heat pump hot water system 21-25 RECs
 - 5000 Litre RW Tank
 - Photovoltaic system – 3.5 kilowatts

Development Application 2012/27

PreTech Pty Ltd - Architects

Level 1, 289 High Street
 Parramatta, NSW 2756
 Telephone: (02) 4732 6100 Fax: (02) 4732 6200

Project:
 Proposed Two Storey Residence
 Lot 8, 26 Stewart Street, THE ENTRANCE NORTH

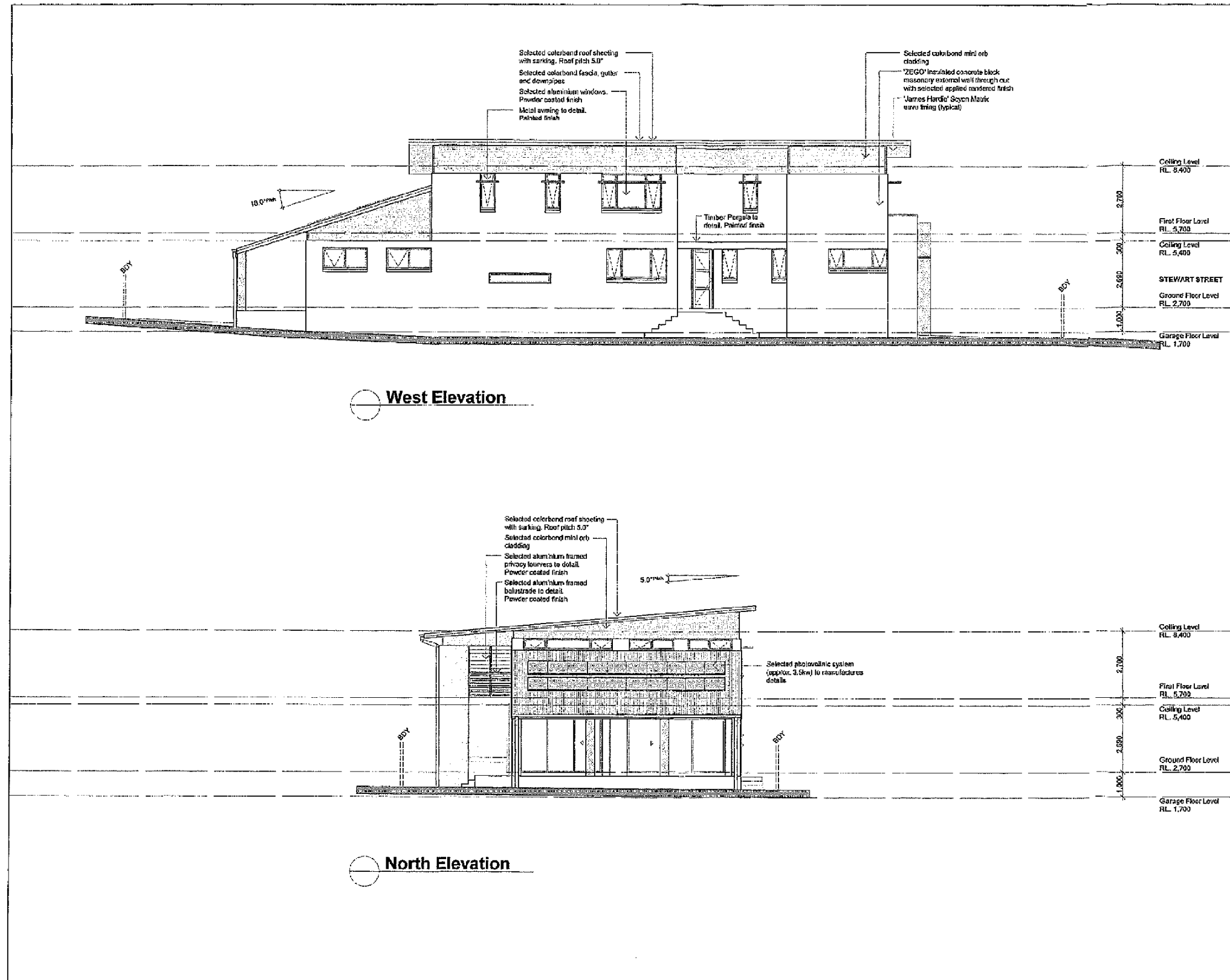
Client: Mr Miguel & Mrs Tamara FLEITAS

Scale: 1:200

Author: S. Villegas
 Designer: S. Villegas
 Date: Dec 2009

Section & Thermal Performance Commitments

No. in Set	Page No.	Issue
07	A06	A



NOTE: THESE DRAWINGS SHALL BE READ IN CONJUNCTION WITH THE SPECIFICATION, THE STRUCTURAL ENGINEERING DETAIL AND ANY OTHER DOCUMENT THAT MAY BE ISSUED DURING THE COURSE OF CONSTRUCTION.
 ALL DIMENSIONS SHOWN ARE IN MILLIMETRES, NO DIMENSIONS SHALL BE SCALED FROM THE DRAWINGS.
 ALL DIMENSIONS SHALL BE VERIFIED BY THE BUILDER ON SITE. ANY DISCREPANCY SHALL BE REFERRED TO THE DESIGNER BEFORE ANY CONSTRUCTION OR FABRICATION IS COMMENCED.

Colour Schedule

- Colorbond custom eave roof sheeting Colorbond 'Windspray'
- Colorbond fascia, gutters & downpipes Colorbond 'Windspray'
- Colorbond mini orb wall cladding Colorbond 'Evening Haze'
- Eave lining James Hardie 'Soyan Matrix' or equal
- External masonry-Applied rendered finish. Colorbond colour-'Leaf'
- External masonry-Applied rendered finish. Colorbond colour-'Duke's Vase'
- External masonry-Applied rendered finish. Colorbond colour-'Duke's Vase'
- External masonry-Applied rendered finish. Colorbond colour-'Surf Mist'
- Aluminium windows and doors Colorbond colour-'Serenist'

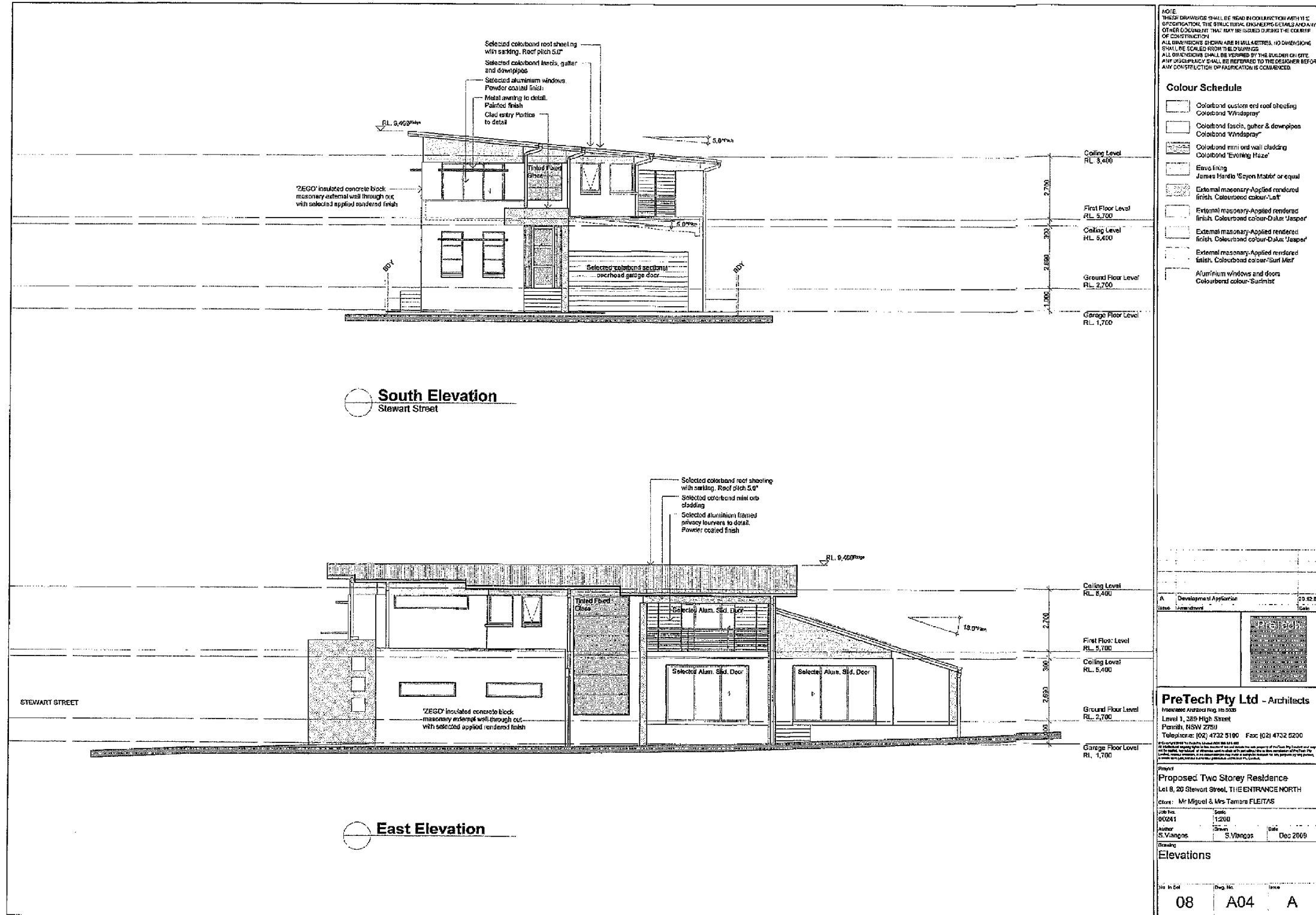
A	Development Application	30.12.09
	Attachment	Final

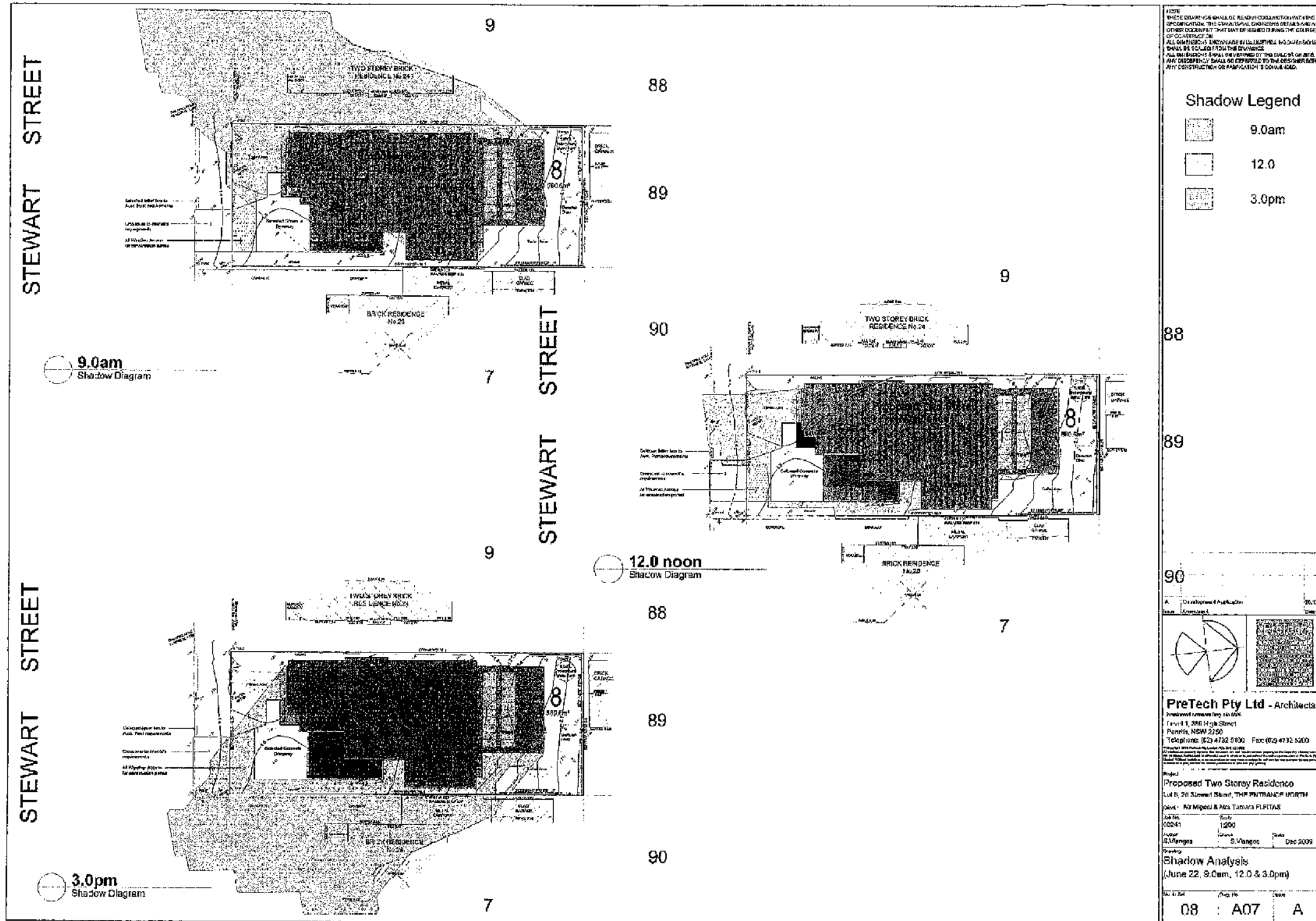
PreTech Pty Ltd - Architects
 Numbered Architect No. 8256
 Level 1, 385 High Street
 Parramatta, NSW 2150
 Telephone: (02) 4732 5100 Fax: (02) 4732 5200

Project:
Proposed Two Storey Residence
 Lot 6, 26 Stewart Street, THE ENTRANCE NORTH
 Owner: Mr Miguel & Mrs Tamara FLEITAS

Drawn: S. Vargos Date: 2009
 Drawing: Elevations

No. In Set: 08, Draw. No: A05, Issue: A





2.6 Purchase of Land at Fountaindale

TRIM REFERENCE: F2010/00397 - D02255312

AUTHOR: PK

SUMMARY

Approval is sought to acquire Lot 5 DP 563244 Brush Road, Fountaindale, zoned 7(a) Conservation, for classification as Community Land.

RECOMMENDATION

- 1 That Council authorise the purchase of Lot 5 DP 563244 Brush Road, Fountaindale for a purchase price of \$200,000.00 (excl. GST).**
- 2 That Council authorise the affixing of the Common Seal of the Wyong Shire Council to all documents relating to the acquisition of the land by Council.**
- 3 That Council authorise the Mayor and the General Manager to execute all documents relating to the acquisition of the land by Council.**
- 4 That following purchase, Council classify Lot 5 DP 563244 Brush Road, Fountaindale as Community Land – Bushland.**

BACKGROUND

In March 2009 Council refused DA/308/2008 for the erection of a rural dwelling on Lot 5 DP 563244, Brush Road, Fountaindale. The land is 10.12 Hectares in area, steeply sloping and heavily vegetated, and is accessed via an unformed Crown Road which runs for approximately 800m along a westerly ridge from Brush Road. The site is depicted in Attachment 1. The Applicant, Jarrar Investments Pty Ltd., subsequently lodged a Class 1 Appeal against Council's decision to the NSW Land and Environment Court (Proceedings No. 10155 of 2010).

Council's refusal was on the basis that the proposal failed to comply with the objectives of the Wyong Local Environmental Plan, 1991, specifically the objectives of the 7(a) Conservation Zone applying to the land. Council determined that the proposal would be likely to result in extensive earthworks and significant clearing of trees and understorey vegetation for the provision of access, dwelling construction and waste disposal, which would not be compatible with the special ecological and conservation values of the land.

Further, Council determined that the proposal was unable to demonstrate that the provision of suitable measures to minimise natural hazards (slippage, erosion and protection from bushfire) could be carried out in such a manner which would protect environmentally sensitive areas from development and minimise the adverse impacts of the development on the natural environment.

The proposal was not considered to be in the public interest as it would require Council to bear the maintenance costs of the asset protection zone which would be required within and adjacent public road (approximately 800 metres) and the ongoing maintenance and repair costs of the road and associated drainage works and erosion controls into perpetuity. This would amount to a considerable ongoing cost to Council in order to service one ratepayer

Further, the proposed development was not in the public interest as it was inconsistent with the principles of ecologically sustainable development, due to the impacts on biological diversity and ecological integrity, and would lead to fragmentation of the connectivity of the ridgeline tree canopy in this scenic conservation area with indirect impacts including ongoing deterioration of the natural environment through edge effects.

MEDIATION

In accordance with the procedures of the NSW Land and Environment Court, Council hosted the compulsory Section 34 Mediation Conference between the parties on 12 May 2010. Council's Solicitor outlined Council's reasons for refusal of the application and the issues relating to the site and surrounding lands, utilising the extensive and conclusive information available through Council's GIS mapping system, clearly indicating that Council was firmly of the view that the proposal should not be permitted to proceed.

Whilst the Applicant's Solicitor provided the case from his client's perspective, it was clear that there was no common ground for a mediated solution to the proceedings. The applicant's Solicitor raised the possibility of Council purchasing the land to add to its conservation reserves and indicated that whilst valuations had been obtained in 2009 and some discussions held with Council regarding the potential for purchase, resolution of an appropriate sale price had not occurred.

It has been Council's policy to acquire land zoned 7(a) Conservation generally where this fits the orderly and economic development of land and demonstrates the principles of sustainability. In particular, Clause 14 of WLEP 1991 has provisions to generate income specifically to purchase lands with environmental and visual significance, when and if they become available. Funds generated through this clause are limited in usage to the purchase of lands generally fitting Council's adopted criteria and practice.

The Conference proceeded on the basis that the Applicant may be prepared to discontinue the Proceedings, should an appropriate sale price be able to be negotiated for the purchase of the land in accordance with the funds generated through Clause 14 of the WLEP, 1991. Following a series of negotiations, the agreed price is \$200,000.00 (excl. GST). The rationale for the agreed price is detailed below, under The Proposal.

Wyong Local Environmental Plan, 1991 (WLEP, 1991)

Clause 14 of WLEP 1991, provides that a person may subdivide land within Zone No 7(c) where that person contributes an amount of money to be used by Council for the purchase of land within Zone 7(a).

The Clause sets minimum areas (Ha) for land within certain zones. For land zoned 7(c) (Scenic Protection: Small Holdings Zone) the clause states that a person shall not create an allotment having an area of less than 2 hectares, however, the clause also provides for land zoned 7(c) to be subdivided into lots with a minimum area of 1 hectare subject to the applicant either dedicating land zoned 7(a) (Conservation Zone) to Council as a public reserve or paying a contribution to Council for the acquisition of land zoned 7(a) to be added to Council's conservation reserves. The proposed purchase of Lot 5, DP 563244 would be expending funds collected by this subdivision clause.

STRATEGIC LINKS

The subject property is integral in maintaining connectivity between Council's Fountaindale Ridge Reserve to the east and Berry's Lane Reserve to the west. This connectivity is critical for maintaining genetic diversity at a species level and for maintaining ecosystem processes, such as pollination.

Council has acquired many land parcels in the vicinity as part of its conservation reserve network (see Attachment 1) and is actively restoring these lands.

THE PROPOSAL

As mentioned above, Council obtained a Valuation for the land in 2009, and was engaged in negotiations for the purchase of the land. The valuation valued the land at approximately \$175,000.00. However, negotiations did not proceed as the Owner sought a sale price in excess of the Council's valuation.

However, as part of the LEC Mediation process, all available options must be pursued in an open manner in order to attempt to mediate a solution acceptable to both parties. The agreed price of \$200,000.00 (excl. GST) is considered appropriate and is justifiable having regard to the following considerations:

- The land is deemed not suitable for a dwelling or other development by Council due to bushfire, ecology, tree preservation, geotechnical and scenic protection matters. Council has held this position for at least 16 years.
- Given the reasons the Development Application was refused, and the potential to avoid further costly litigation (potentially costing up to \$50,000.00); it is considered that Council should acquire the land and take on the management responsibility. It is considered there will be little or insignificant ongoing maintenance cost given the particular characteristics of the land. It should also be noted that the successful defence of Council's decision would not prevent the lodgement of future applications, Appeals to higher courts, or ongoing pressure for development of the land. Purchase by Council removes these pressures.
- The Owner sought a sale price based on the Valuer General's figure of \$240,000.00, upon which Council rates are based. The agreed value is therefore \$40,000 less – a significant saving for Council.
- The subject property and road reserve are of high conservation value as they support patches of the Lowland Rainforest Endangered Ecological Community, more than 30 specimens of the rare *Callistemon shiressii*, high densities of hollow-bearing trees, known foraging habitat for the threatened Powerful Owl and potential habitat for at least 35 other threatened species.

- By purchasing the property and preventing future private development on the site:
 - Council will not bear the maintenance costs of the asset protection zone along the public road (approximately 800 metres) and the maintenance and repair costs of the road and drainage into perpetuity. This would amount to a considerable cost to Council in order to service one ratepayer.
 - Council will not be responsible for the ongoing regulation of compliance with conditions of consent, such as maintenance of the asset protection zone, prohibition of domestic animals and weed control. This would impact on staff resourcing.
 - Council can limit edge effects on the adjoining Council reserve that would otherwise result from vegetation clearing and occupation of a dwelling (including artificial light, increased runoff volumes, nutrients, pesticides, weed invasion, noise and domestic animals). Such impacts reduce the effective size of the reserve and increase the maintenance requirements.
- The subject property is integral in maintaining connectivity between Council's Fountainsdale Ridge Reserve to the east and Berry's Lane Reserve to the west. Connectivity critical for maintaining genetic diversity at a species level and for maintaining ecosystem processes, such as pollination.
- Acquisition of the subject property and future management for conservation ensures the protection of the headwaters of Chittaway Creek thereby maintaining water quality and hydrological regimes. This is consistent with the objectives of the Tuggerah Lakes Estuary Management Plan.
- Acquisition of the subject property ensures scenic protection in perpetuity, consistent with the objectives of 7(a) Conservation zone.
- Addition of the subject site to the Fountainsdale Ridge Reserve to provide for conservation and passive recreation (e.g. bush walking and push bike riding) is consistent with Council's Shirewide Strategic Vision.
- Travers Environmental (the Applicant's Consultant) offered to provide all ecological survey data for the subject site and the road reserve to Council at no charge. This data has considerable value for Council.

OPTIONS

- 1 That Council purchase the land for \$200,000.00 on the basis that the Applicant agree to discontinue the Proceedings, with each party paying their own costs.
- 2 That the Appeal proceed to a Hearing in the NSW LEC, with likely significant expenditure to defend Council's decision. It should be noted that the successful defence of Council's decision would not prevent the lodgement of future applications, Appeals to higher courts, or ongoing pressure for development of the land.

It is recommended Council pursue Option 1.

Locality Plan



CONCLUSION

To preserve the conservation values and nature of Lot 5, DP 563244 Brush Road, Fountaindale, it is proposed to purchase the land from Jarrar Investments Pty Ltd. This will result in the Discontinuance of NSW Land and Environment Court Proceedings No. 10155 of 2010.

Lot 5, DP 563244 has an area of 10.12 hectares (101,200 m²) and has no existing development. The land is zoned 7(a) Conservation and is of high conservation value. Lot 5, DP 653244 is also of strategic value as it assists in closing the missing link between two existing Council reserves.

Sufficient funds are available from funds collected made pursuant to Clause 14 of Wyong LEP 1991 to purchase the subject land, which fits the acquisition criteria in that the land has significant environment values, provides ecosystem services and is part of a visually prominent ridge system within the local catchment.

Following Council's acquisition of Lot 5, DP 563244 Brush Road, Fountaindale, the land should be classified Community Land – Bushland, the core objectives of which are to ensure the ongoing ecological viability of the land and its ability to provide ecosystem services.

ATTACHMENTS

Nil

3.1 Easement for Electricity Purposes over Lot 48 DP 261539 and Lot 1 DP 210419 Benalla Close, Killarney Vale

TRIM REFERENCE: F2010/00526 - D02267203

AUTHOR: JT

SUMMARY

Approval is sought to grant an easement to EnergyAustralia over Lot 48 DP 261539 and Lot 1 DP 210419 and to extinguish an existing easement over Lot 1 DP 210419 at Benalla Close, Killarney Vale for the replacement of the existing transmission line with underground cables.

RECOMMENDATION

- 1** *That Council grant an easement for electricity purposes over Lot 48 DP 261539 and Lot 1 DP 210419, Benalla Close, Killarney Vale to EnergyAustralia to accommodate the relocation of the electricity supply for an amount of compensation payable as assessed by a qualified valuer.*
- 2** *That Council authorise the termination of the existing easement.*
- 3** *That Council authorise the Common Seal of Wyong Shire Council to be affixed to related documents as required.*
- 4** *That Council authorise the General Manager to execute all documents relating to the grant of easement between Wyong Shire Council and Energy Australia.*

BACKGROUND

EnergyAustralia has written to Council seeking agreement to install underground cables on Council land.

The proposed underground cables will replace the existing overhead electricity transmission line over part of the drainage canal within Lot 1. The existing transmission line will be removed and the associated Council easement extinguished by Energy Australia.

Energy Australia considers the existing transmission line to be a risk as it traverses a residential property at 7 Benalla Close.

The transmission line is also located over part of the Council drainage channel on Lot 1. Access to the poles and conductors located in the drainage land is extremely difficult because of the large open water drain situated near the lake and because of the fenced and paved area which has been constructed at 7 Benalla Close.

The land affected by EnergyAustralia's proposal is Lot 48 DP 261539 (Lot 48) and Lot 1 DP 210419 (Lot 1) at Benalla Close, Killarney Vale.

3.1 Easement for Electricity Purposes over Lot 48 DP 261539 and Lot 1 DP 210419 Benalla Close, Killarney Vale (contd)

Lot 48 DP 261539 at Benalla Close, Killarney Vale has an area of approximately 3,877 m², is zoned part 6 (a) Open Space & Recreation and part 2 (a) Residential and is classified as Community Land under Plan of Management 5 (Sportsgrounds, Parks, Playgrounds and General Community Use) for infrastructure.

Lot 1 DP 210419 at Benalla Close, Killarney Vale has an area of approximately 1,790 m², is zoned 2 (a) Residential and is classified as Operational land. A concrete lined drainage channel is constructed on Lot 1 and extends from Wyong Road to Lucinda Avenue.

THE PROPOSAL

The “undergrounding” proposal follows a different route to the existing transmission lines necessitating a change in the easement arrangements.

It is proposed that Council will take back the old easement rights and extend new rights the Energy Australia to satisfy the “under-grounding”

The new easement for electricity purposes is proposed to be 5m wide strip over part of Lots 48 and Lot 1. Energy Australia has agreed to pay compensation, to be assessed by a qualified valuer for the easement rights.

The existing easement will be extinguished following the removal of the poles and conductors and EnergyAustralia will repair any damage and reinstate the drainage channel – all at their cost. In addition Energy Australia has agreed to manage the vegetation works, environmental and soil erosion matters in accordance with WSC’s requirements.

Grant of the new easement will have minimal impact on Council land. Council has no proposals for alternate use of the land. Granting the easement will allow EnergyAustralia to proceed with the construction of the underground cables and removal of the existing transmission line over the drainage channel.

If Council does not grant the easement, EnergyAustralia has rights under Section 45 of the Electricity Supply Act 1995 which provides:

- “(2) *For the purpose of exercising its functions under this or any other Act or law, a network operator:*
 - (a) *may carry out work to which this section applies, and*
 - (b) *in particular, may carry out any such work on a public road or public reserve.*

- (3) *Work to which this section applies is exempt from the requirement for an approval under the Local Government Act 1993 except in relation to buildings.”*

Lot 48 is used as open space. Underground electricity cables will not affect the use of the land as open space and it is unlikely that Council would seek to change the use. That part of Lot 48 zoned 2(a) residential may not be sold by Council for the reason that the land is classified as community land. A Local Environmental Plan is required to reclassify the land should Council ever contemplate sale.

FINANCIAL IMPLICATIONS

There is no cost to Council to grant the easement. EnergyAustralia has agreed to pay compensation to Council and Council's reasonable legal costs associated with the creation of the easement as well as all survey costs.

ENVIRONMENTAL ISSUES

In respect to potential environmental issues with the replacement of the existing transmission line by underground cables, Council should note the following:

- 1 The proposed easement (5m wide) contains 25 mature *Casuarina glauca* (Swamp Oaks). Given the species, soil type and landscape position, the vegetation would qualify as the Swamp Oak Floodplain Forest Endangered Ecological Community. The EEC would be considered degraded, however, due to the lack of native groundcover, lack of understorey and lack of regeneration of canopy species. The patch size is small and width is less than 25m therefore the EEC is currently under intense pressure. Provided that Energy Australia utilises underboring in establishing the main or excavates by hand within tree protection zones, the trees could be retained therefore impact on the EEC would be minimal. However, Energy Australia will determine this when completing their own Part 5 assessment for the works. EnergyAustralia has discussed preservation of trees with Council and will require the removal of one tree associated with the construction.
- 2 Acid sulfate soils are likely to occur at this location, therefore underboring would minimise the disturbance of these soils and therefore risk of environmental harm.
- 3 Several passive and active saltmarsh rehabilitation sites being managed under the Estuary Management Plan are within in proximity to the proposed easement. Provided that industry standard environmental controls are implemented during construction, the proposed easement should not have any measureable adverse impact on these areas.
- 4 No other threatened species have been recorded within proximity to the proposed easement, nor is any high quality fauna habitat present within the proposed easement.

CONSULTATION

Energy Australia has approached Council in order to obtain the easement and has agreed to pay compensation as assessed by a valuer.

Subject to Council's approval, the easement will be formalised prior to the commencement of the work. EnergyAustralia will be required to remove the transmission lines and reinstate the drainage channel prior to extinguishment of the existing easement.

GOVERNANCE

In respect to Lot 48, the Plan of Management No. 5 for Sportsgrounds, Parks, Playgrounds and General Community Use and the Local Government Act 1993 authorise the grant of easements. Council is prohibited from selling Community land.

Lot 1 is Operational land and there is no impediment to the grant of the easement by Council.

Locality Plan

**CONCLUSION**

It is proposed that Council grant an easement to EnergyAustralia over WSC land Lot 48 DP 261539 and Lot 1 DP 210419 and to extinguish an existing easement over Lot 1 DP 210419 at Benalla Close, Killarney Vale which will facilitate the replacement of the existing transmission line with underground cables by Energy Australia.

ATTACHMENTS

Nil.

4.1 Contract CPA/177882 Supply and Delivery of Domestic Water Meters

TRIM REFERENCE: CPA/177882 - D02270285

AUTHOR: JM

SUMMARY

Evaluation and selection of tenders for Contract No. CPA/177882 for the Supply and Delivery of Domestic Water Meters.

RECOMMENDATION

- 1 That, Council agree to the contract between Hunter Councils Inc. and Elster Metering Pty Ltd for the supply and delivery of Domestic Water Meters, subject to all member Councils of Hunter Councils Inc. agreeing to participate.**
- 2 That Council authorise the estimated expenditure on Domestic Water Meters for Wyong Shire at \$240,000 (ex GST) for the contract period.**
- 3 That Council note that while the estimated annual expenditure against this contract is \$80,000 (ex GST), actual expenditure may vary significantly with fluctuations in demand.**

BACKGROUND

Council purchases approximately 1,400 water meters annually for use on domestic water services. Meters are purchased in predominantly 20mm and 25mm sizes and are stocked and distributed out of Council's stores at Charmhaven and Long Jetty depots. Council currently acquires water meters from Elster Metering Pty Ltd under a Hunter Councils Inc. period contract which expired on the 30 June 2010.

This tender 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. Hunter Councils Inc. receive a management fee from the appointed Contractor of 1.5% of total spend under the Contract. Provision for the management fee is included in tendered rates.

Five (5) member Councils of Hunter Councils Inc. participated in the tender, with the major participants, based upon usage, being both Wyong Shire Council and Gosford City Council. The remaining participating Councils in the tender were from the Hunter Valley. The aggregated volume achieved through the joint tendering process provides Wyong Shire Council with the opportunity to achieve costs savings that may not have been otherwise achievable under a Council specific tender and there is no State Government tender available for these goods.

The contract period is for two years with an optional one-year extension. Council obtains on going efficiencies in the way of ordering, price maintenance and production scheduling by locking into a three year arrangement. Tenders were called on the basis of a sole supply arrangement. This requires that all participating Councils individually agree to accept the tender recommendation in order for rates to become effective.

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 30 March 2010 and the Newcastle Herald on 3 April 2010. The advertised closing date was 20 April 2010.

The invitation documents called for a Schedule of rates tender, based on a detailed specification.

Tenders closed at Hunter Councils Inc. at 10:00am on the 20 April 2010.

Evaluation of tenders occurred at Gosford City Council on the 29 April 2010. Only one tender was received and it was deemed non conforming. The evaluation panel instructed Hunter Councils Inc. to recall the tender and to contact all water meter manufactures and advise them of the new tender and to encourage participation.

New tenders were called by way of public invitation. Advertisements were placed in the Sydney Morning Herald on the 18 May 2010 and the Newcastle Herald on the 20 May 2010. The advertised closing date was 8 June 2010.

Tenders closed at Hunter Councils Inc. at 10:00am on 8 June 2010.

EVALUATION OF TENDERS

Tenders were evaluated by a panel of three staff members incorporating representatives from Wyong Shire Council, Gosford City Council and Hunter Councils Inc. using the following threshold and weighted criteria:

Threshold Criteria

1. Conformance with the specification and requirements of the tender documents.
2. The Tenderers ability to manage risks arising from issues such as safety and environmental impact.

Weighted Criteria

1. Price
2. Referees
3. Environmental Sustainable Development
4. Delivery Times
5. Quality
6. OH&S
7. Previous experience.

The evaluation criteria and weightings were documented in the Contract Development Plan and approved by the Director Corporate Services prior to tenders being invited. The Contract Development Plan is available on file.

4.1 Contract CPA/177882 Supply and Delivery of Domestic Water Meters (contd)

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

The evaluation was conducted according to the following process.

- Assessment of receipt of tender/s.
- Assessment of conformance of tender/s.
- Detailed weighted evaluation of shortlisted tender/s.
- Due diligence checks on preferred tenderer/s.

Assessment of Receipt

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

Tender	Tendered Lump Sum (Ex. GST) based on estimated per annum usage multiplied by the tender price	Status
1 Elster Metering Pty Ltd	\$78,470	Submitted on time
2 Actaris Pty Ltd.	\$78,170	Submitted on time

* See Assessment of Conformance below.

Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements, including the specification. Tender No. 1 from Elster Metering Pty Ltd Tender No. 2 from Actaris Pty Ltd conformed to all requirements and were progressed to the next stage of evaluation.

Weighted Evaluation

Tenders were scored against each of the weighted evaluation criteria (including price and non-price elements), and are listed below in descending order of weighted evaluation scores.

Tender	Tendered Lump Sum (Ex. GST) based on estimated per annum usage multiplied by the tender price	Weighted Evaluation Score
1 Elster Metering Pty Ltd	\$78,470	98
2 Actaris Pty Ltd	\$78,170	96

4.1 Contract CPA/177882 Supply and Delivery of Domestic Water Meters (contd)

Elster Metering Pty Ltd offer had a slightly higher aggregated price, but was considered a superior offer when other assessment criteria were considered.

Tender No. 1 from Elster Metering Pty Ltd, being the highest scoring tender, was progressed to the due diligence stage of the evaluation.

Due Diligence

Reference checks were obtained from Hunter Water Corporation, Power & Water Corporation and Rockhampton Regional Council on tender No. 1 Elster Metering Pty Ltd. Information was asked to be provided on the delivery performance and quality of items supplied. All referees indicated that Elster Metering Pty Ltd were very responsive and delivered quality products.

Elster Metering Pty Ltd is the incumbent contractor to Council under Hunter Councils Inc. contract CPA/122702. Contact with key warehousing staff has indicated they are fully satisfied with the responsiveness and all round service provided by Elster Metering Pty Ltd.

Process Review

This evaluation process and recommendations have been endorsed by the Contract Systems Co-ordinator.

BUDGET

The contracts will be offered as a fixed schedule of prices per item. Purchases will be funded from Council cost centres as transactions occur. The estimated value of the contract (based on previous years' usage) is \$235,410 over three years (\$78,470 pa excl GST). Actual value will depend on the quantities ordered as requirements arise over the life of the contract. The total amount may vary significantly from estimates.

TIME-FRAME

The contract commences 1 July 2010 and runs for a period of two years ending 30 June 2012. An optional 12 month contract extension is available based on satisfactory performance.

LOCAL PREFERENCE POLICY

Local preference was not considered as part of this tender assessment as the policy adopted by Council does not apply where Council is entering into a joint purchasing initiative with other Councils and the ability to obtain quotes from local suppliers is not provide.

A basic assessment of local content was still undertaken and indicated that Elster Metering Pty Ltd employ 110 staff in Australia across administration, engineering, manufacturing sales & marketing. The company uses local manufacturers for the supply of 20mm & 25mm domestic water meters, while the 32mm and above water meters are manufactured at a specialised brass factory in Tasmania.

Actaris Pty Ltd employs 20 staff in Australia and supplies water meters from imported parts.

CONCLUSION

Tender No. 1 from Elster Metering Pty Ltd 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.

4.2 Contract CPA/159848 Reservoir Lining - Tuggerah 1 and Ridgeway 1 & 2

TRIM REFERENCE: CPA/159848 - D02267875

AUTHOR: KK

SUMMARY

Evaluation and selection of tenders for Contract CPA/159848 – Reservoir Lining – Tuggerah 1 and Ridgeway 1 & 2.

RECOMMENDATION

- 1 ***That Council accept the tender from Glindemann Industrial Coatings Pty Ltd in the lump sum and extended schedule of rates amount of \$274,652.90 (excl GST) for Contract CPA/159848 – Reservoir Lining - Tuggerah 1 and Ridgeway 1 & 2.***
- 2 ***That Council approve for Contract CPA/159848 a contract budget of \$315,652.90 (excl GST) that provides for a contingency amount of \$41,000 (excl GST) representing approximately 15% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.***

BACKGROUND

This contract involves the application of a suitable lining system to ensure the integrity and extend the lifespan of three of Council's reinforced concrete water supply reservoirs. The linings will be applied to the large Tuggerah 1 reservoir at Kangy Angy, and the two smaller water reservoirs known as Ridgeway 1 and 2 at Tumbi Umbi. Through the repair of the internal concrete surfaces and application of a specialised lining, leaks will be addressed, the concrete surfaces sealed and the effective life of the reservoirs increased to provide a cost-effective solution for Council in the maintenance of these important assets.

The technical specification to clean, repair and apply the specialised lining to the internal concrete surfaces of the reservoirs was prepared by a coating specialist. The products and systems specified in the tender documents have been selected with advice from this coating specialist and with the knowledge gained by Council on previous works of this nature. The lining material is certified for use with potable water, has a low water vapour permeability and superior tensile strength, making it well suited to this application.

Programming of the work to isolate the reservoirs and minimise disruptions to the water supply system, and the safety of workers during installation of the internal linings, have also been given careful consideration to mitigate the two main critical risk factors on this contract.

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 11 May 2010 and the Central Coast Express Advocate on 12 May 2010. Tenders were also advertised on Council's e-Tender website. The advertised closing date was 27 May 2010.

4.2 Contract CPA/159848 Reservoir Lining - Tuggerah 1 and Ridgeway 1 & 2 (contd)

The invitation documents called for a combined lump sum and schedule of rates tender, based on the detailed Technical Specification.

A mandatory Pre-tender Meeting was held at Council's Administration Building and the two proposed work sites on 14 May 2010 to allow tenderers to become familiar with site conditions.

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

No.	Date Issued	Description
1	19/05/10	Issue of Pre-tender Meeting Minutes
2	19/05/10	Update of Returnable Schedule 13 - Rates and Lump Sum Items

Tenders closed at Council Chambers at 2.00pm on 27 May 2010.

EVALUATION OF 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.

Tenders were evaluated by a panel of three staff members (one of whom was from a unit other than the one managing the procurement process).

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

Tenders were evaluated using the following threshold and weighted criteria:

Threshold Criteria:

- 1 Compliance with Tender documents, including lodgement of all returnable schedules.
- 2 Ability to manage financial, environmental, operational and safety risk.
- 3 Attendance at Pre-tender meeting.

Weighted Criteria:

- 1 Assessed level of Local Content.
- 2 Conformity with Specification.
- 3 Proposed methodology / construction program.
- 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.
- 6 Past performance.

4.2 Contract CPA/159848 Reservoir Lining - Tuggerah 1 and Ridgeway 1 & 2 (contd)

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.	Tender	Tendered Lump Sum (Ex. GST)	Status
1	Blast It Clean It Paint It Pty Ltd	\$498,865.00	Submitted on time
2	Glindemann Industrial Coatings Pty Ltd	\$274,652.90	Submitted on time
3	Interflow Pty Ltd	\$399,428.87 \$405,043.87 (adjusted)*	Submitted on time
4	Jahmek Pty Ltd	\$344,857.00	Submitted Late (Eliminated)
5	Keystone Building Solutions Offer 1	\$349,260.00	Submitted Late (Eliminated)
6	Keystone Building Solutions Offer 2	\$126,300.00	Submitted Late (Eliminated)
7	Protector Pty Ltd	\$442,779.00	Submitted on time
8	McElligott Partners Pty Ltd Offer 1	\$508,604.10	Submitted on time
9	McElligott Partners Pty Ltd Offer 2	\$492,891.10	Submitted on time

* See Assessment of Conformance below.

Tender No 4 (from Jahmek Pty Ltd) was submitted by email to Council and was received nine minutes after the closing time. The Tenderer reported slow upload times as the reason for the delay. A check with the e-tender web site administrator failed to identify any technical issue with the web site on the day of the close. Under Clause 177 (2) of the Local Government Regulation (General) 2005 Council is not permitted to consider this tender. It should also be noted that the tender was submitted by email and, even if submitted on time, would have been eliminated from further consideration. The tender documents specified lodgement procedures, and facsimiles and emails were specifically excluded as acceptable methods of lodging tenders.

Tender No 5 (from Keystone Building Solutions) was submitted by email to Council and was received 14 minutes after the closing time. The Tenderer reported a “duplicating error” message when attempting to submit via eTender, however no errors or help calls were logged by the eTender website Help Desk. A check with the e-tender web site administrator confirmed that there were no technical issues with the web site on the day tenders closed. It should also be noted that the tender was also submitted by email and, even if it had been submitted on time, would have been eliminated from further consideration. The tender documents specified lodgement procedures, and facsimiles and emails were specifically excluded as acceptable methods of lodging tenders.

Tender No 6 (from Keystone Building Solutions) was submitted by email to Council and was received 14 minutes after the closing time. This was the second offer submitted by Keystone and was eliminated from further consideration for the same reasons as Tender Nos 4 and 5.

4.2 Contract CPA/159848 Reservoir Lining - Tuggerah 1 and Ridgeway 1 & 2 (contd)

The Tender Panel also noted that the very low price of Tender no 6 was due to the use of an alternate, less superior product.

Tender Nos 1, 2, 3, 7, 8 and 9 were received without irregularity and 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 (from Blast it Clean It Paint It Pty Ltd) did not include a Construction Program and Methodology as required by Returnable Schedule 12 – Additional Documents to be Submitted. This tender was the second highest price received. Even if this tender had achieved very high scores in the weighted non-price criteria, the tender would still remain uncompetitive due to the very high tendered price. Tender No 1 was not considered further.

Tender No 2 (from Glindemann Industrial Coatings) submitted all documents as required. In Schedule 13 Rates and Lump Sum Items, the Tender contained a quantity and commensurate extended price, greater than that requested in Schedule 13. However, on investigation, the quantity tendered was found to be more accurate for the actual work required, as it was based on measurements of observable defects taken inside the reservoir during the mandatory pre-tender meeting inspection. The quantity of work and hence the total of the tender was therefore slightly higher than the other Tenders. Although the amount was not significant enough to change the relativity of tenders, the other conforming tender was adjusted accordingly. The Panel considered that Tender No 2 was fully conforming.

Tender No 3 (Interflow Pty Ltd) included all the documents required. The tender was adjusted by increasing the quantity of work to be consistent with the quantity of work tendered in Tender No. 2. With an adjusted tender amount of \$405,043.87, Tender No 3 was found to be fully conforming.

Tender No 7 (from Protector Pty Ltd) was non-conforming in that it did not include a Construction Program and Methodology or Insurance Certificates as required by Returnable Schedule 12 – Additional Documents to be Submitted. The tendered price was also considerably higher than five other tenders. Even if this tender had achieved very high scores in the weighted non-price criteria, the tender would still remain uncompetitive due to the very high tendered price. Tender No 7 was not considered further.

Tender No 8 (Offer 1 from McElligott Partners Pty Ltd) did not include a Construction Program and Methodology as required by Returnable Schedule 12 – Additional Documents to be Submitted. This tender was the highest price received. Even if this tender had achieved very high scores in the weighted non-price criteria, the tender would still remain uncompetitive due to the very high tendered price. Tender No 8 was therefore not considered further.

Tender No 9 (Offer 2 from McElligott Partners Pty Ltd) did not include a Construction Program and Methodology as required by Returnable Schedule 12 – Additional Documents to be Submitted. This tender was the third highest price received. Even if this tender had achieved very high scores in the weighted non-price criteria, the tender would still remain uncompetitive due to the very high tendered price. Tender No 9 was therefore not considered further.

Tender Nos 2 and 3 were found to be fully conforming and were progressed to the next stage of evaluation.

Weighted Evaluation

Weighted 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 firstly scored against the weighted evaluation criteria (other than Local Content), and are listed below in descending order of weighted evaluation.

Tender No.	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score (Pre application of Local Preference)
			Most Competitive Offer
2	Glindemann Industrial Coatings Pty Ltd	\$274,652.90	83.3
3	Interflow Pty Ltd	\$405,043.87(adjusted)	56.8

Tender No 2 (from Glindemann Industrial Coatings Pty Ltd) scored very well across all weighted criteria and exceptionally well under the price criterion, with the tendered price being well below the other tenders, and below the pre-tender estimate.

This tender also scored very well in the experience and past performance criteria, and with referee checks. Discussions with the coating specialist indicated that Glindemann are highly regarded in the industry, and that the quality of Glindemann's past work on similar projects was very good. Also highlighted through the referee checks was the company's extensive experience where they have successfully completed several projects of almost identical nature.

This tender provided a thorough preliminary program of work, with the level of detail included further demonstrating a clear understanding of the scope and requirements of the Contract. Tender No 2 was found to be the most competitive offer.

Tender No 3 (from Interflow Pty Ltd) scored well in the areas of conformity with specification, proposed construction program and past performance. This tender met all requirements of the specification utilising the specified products.

This Tender provided a program and methodology information. The program, while thorough, was not as detailed as Tender No 2.

4.2 Contract CPA/159848 Reservoir Lining - Tuggerah 1 and Ridgeway 1 & 2 (contd)

Referee checks provided further information regarding past performance, and overall these were generally positive.

The company scored lower on experience as it could not demonstrate relevant experience in the application of the lining specified for Council's reservoirs.

With this Tender scoring less favourably in the price criterion, it was found to be the second most competitive offer.

Overall, Tender No 2 exceeded or equalled the scores of Tender No 3 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:

Policy Criteria	Criteria Applied to Tender Assessment
Category of Contract	Works
Method to Determine Financial Impact Limitations	3% above price component of Most Competitive Offer, with a maximum of \$15,000.00 applicable to this category of contract
Price Component of Most Competitive Offer	\$274,652.90
Financial Impact Limitation To Be Applied to Preferred Offer	\$8,240.00

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 (Pre-application of Local Preference)	Financial Impact Limitation To Be Applied to Preferred Offer	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score (Post application of Local Preference)	
			Most Competitive Offer			Preferred Offer	
2	Glindemann Industrial Coatings Pty Ltd	\$274,652.90	83.3	\$8,240.00	\$20,800.00	84.0	
3	Interflow Pty Ltd	\$405,043.87 (adjusted)	57.6		\$0	56.8	

4.2 Contract CPA/159848 Reservoir Lining - Tuggerah 1 and Ridgeway 1 & 2 (contd)

Tender No 2 (from Glindemann Industrial Coatings Pty Ltd) included \$16,000 worth of local accommodation and meals for the specialist workers attending from Queensland, as well as \$4,000 worth of fuel and consumables to be purchased locally.

Tender No 3 (from Interflow Pty Ltd) did not include any local content.

Following assessment of Local Content, there was no change to the order of ranking for tenders i.e. the most Competitive Offer of Tender No. 3 from Glindemann Industrial Coatings Pty Ltd was assessed as the Preferred Offer and was therefore progressed to the next stage of evaluation.

Due Diligence

Tender No 3 (from Glindemann Industrial Coatings Pty Ltd) was subjected to referee checks and a financial assessment.

Referees indicated that Glindemann Industrial Coatings Pty Ltd possesses the knowledge, experience and ability to complete the works under the contract.

Council's independent financial assessor, Kingsway Financial Assessments, has favourably reported on the financial position of Glindemann Industrial Coatings Pty Ltd.

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 Glindemann Industrial Coatings possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

The amount tendered by Glindemann Industrial Coatings Pty Ltd is within 22% of Council's pre-tender estimate and is considered to represent a reasonable price for the contract works.

PROCESS REVIEW

This evaluation process and recommendations have been endorsed by the Contract Systems Co-ordinator.

RISK ASSESSMENT

General

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

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

Contract Risks

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

Generic Risks

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

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

Specific Risks Leading to Contract Variations

The following are the major risks that Council bears in relation to this contract:

- The quality of the design is sub-standard resulting in additional costs during the construction phase. Mitigated by appropriate technical reviews by others to ensure design meets requirements.
- Quantities for work items under the contract are greater/lesser than pre-award estimates leading to variation claims by the contractor. Mitigated through the tender process by requiring specified rates for each work item under a Schedule of Rates arrangement with upper and lower control limits. Contract payments are then calculated by multiplying the actual quantity for each work item by the tendered rate. Actual quantities are confirmed by Council through measurement / survey prior to payment.

Risk Contingency

The above risks are considered Medium for this contract given the value of the contract and the nature of the work. The risks anticipated include uncovering more extensive corrosion than anticipated by visual inspection, unfavourable weather conditions such as high winds and rain making it unsafe to access the top of the reservoir and extreme temperature affecting the program for the application of paint. Accordingly, it is recommended that a contingency sum of \$41,000.00 (excl GST) representing approximately 15% of the contract sum be approved.

4.2 Contract CPA/159848 Reservoir Lining - Tuggerah 1 and Ridgeway 1 & 2 (contd)

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 \$315,652.90 (excl GST), which incorporates the contingency allowance, will not be exceeded.

BUDGET

The total project budget is \$350,000.00. Funds of \$350,000.00 (excl GST) are available from the Water and Sewer Capital Works – Water Fund.

TIMEFRAME

The Contract period is 12 weeks from award. It is expected that the contract will be completed by November 2010.

APPROVALS

No approvals are required as work under this contract is maintenance to existing assets.

CONCLUSION

Tender No 2 from Glindemann Industrial Coatings 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.

4.3 Contract CPA/179982 - Replacement of Pope Air Conditioning Equipment in Wyong Civic Centre

TRIM REFERENCE: CPA/179982 - D02273219

AUTHOR: KK

SUMMARY

Evaluation and selection of tenders for Contract CPA/179982 – Replacement of Pope Air Conditioning Equipment in Wyong Civic Centre.

RECOMMENDATION

- 1 That Council accept the tender from Air Conditioning Industries Pty Ltd in the lump sum and extended schedule of rates amount of \$203,792.00 (excl GST) for Contract CPA/179982 – Replacement of Pope Air Conditioning Equipment in Wyong Civic Centre.**
- 2 That Council approve for Contract CPA/179982, a contract budget of \$224,171.20 (excl GST) that provides for a contingency amount of \$20,379.20 (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 approve the reallocation of \$12,000.00 within the existing Waste and Sustainability Improvement Grant to provide sufficient budget for the replacement of the Pope air conditioning.**

BACKGROUND

The Wyong Civic Centre consists of a number of interconnected buildings constructed at various times since establishment of the Shire. Significant sections of the older Buildings C and D are serviced by two 150kW air conditioning units manufactured by Pope. See Attachment 1 for plans of the buildings to be serviced. These units are approximately 30 years old and are well past their anticipated economic life. Council has been experiencing an increasing number of breakdowns, higher maintenance costs and uncomfortable conditions for building occupants as the air conditioning units have been unable to maintain desired temperatures.

Replacement of the Pope units with efficient equipment using the latest technology will provide more favourable environmental outcomes, as well as ongoing financial savings from reduced power and maintenance costs.

Council recently approved the use of external funding from the NSW Government's Waste and Sustainability Improvement Grant Program to carry out the replacement of both units with more efficient equipment. Council endorsed a Sustainability Action Plan, which apportioned this Grant funding to four projects including Replacement of the Pope Air Conditioning and purchase of Green Power.

At the Ordinary Meeting of Council held 14 October 2009, Council resolved on the motion of Councillor McBride and seconded by Councillor Wynn:

4.3 Contract CPA/179982 - Replacement of Pope Air Conditioning Equipment in Wyong Civic Centre (contd)

- "1 That Council endorse the following high priority projects to the value of \$550,000.00 (excl GST) to be developed and submitted to DECCW by 30 October 2009 as part of the Sustainability Action Plan:
- a Provision of high risk waste collection service for e-waste, batteries and fluorescent light bulb and tubes. (\$110,000.00 excl GST)
 - b Replacement of air-conditioning units in buildings C and D of the Civic Centre. (\$240,000.00 excl GST)
 - c Temporary engagement of a Waste and Sustainability Improvement Officer. (\$100,000.00 excl GST)
 - d Increase purchase of Green Energy for the Civic Centre from a current level of 25% to 50%. (\$100,000.00 excl GST)
- 2 That the shortfall of \$550,000.00 (excl GST) in funding for Waste programs as a result of re-directing these funds to sustainability projects be addressed by reviewing future waste projects and revenue from tipping fees and the Domestic Waste Management Charge.

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

AGAINST: COUNCILLOR BEST, EATON AND MCNAMARA."

Within the existing Grant funding there is latitude to reallocate funds between projects. It was envisaged at the time of the Grant funding application that, because of the then unknown cost of replacing the Popes, which would be subject to tender process, any balance of funds require for the air conditioning upgrade would be made available from the Green Energy project. This arrangement has been agreed to by DECCW.

It is proposed to transfer an amount of \$12,000 from the Green Energy project to the Replacement of Pope Air Conditioning project to give a project budget of \$252,000. While green energy has already been purchased, the Green Energy project remains in surplus. Transfer of funds between projects is allowable under the terms of the original grant, and was always envisaged in case tender prices received exceeded initial estimates. The replacement of the old units will contribute significantly to a reduction in the amount of green energy to be purchased in the future.

This contract will replace both Pope air conditioning units with six package air conditioning units to service the Corporate Information, Community Services, Properties, Purchasing and Human Resources units located in Buildings C and D. The replacement concept was devised by mechanical engineering consultant GHD Pty Ltd in consultation with Council staff, and aimed to reuse existing ductwork, minimise capital and running costs and avoid disruption to office accommodation. The concept design was included in the tender documents and tenderers were invited to offer equipment, including the energy efficiency ratio, in line with the concept design.

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed for publishing in the Sydney Morning Herald on 11 May 2010 and the Central Coast Express Advocate on 12 May 2010. Tenders were also advertised on Council's e-Tender website. Companies with specific experience in air conditioning refurbishment were also notified by email. The advertised closing date was 27 May 2010.

The invitation documents called for lump sum and schedule of rates tenders, based on a detailed specification.

A compulsory pre-tender meeting was held at the Wyong Civic Centre on 11 May 2010 to allow tenderers to become familiar with site conditions.

Due to a delay causing newspaper advertising to appear after the date of the pre-tender meeting, a second inspection was conducted on 20 May 2010 to ensure fairness to all potential tenderers. Minutes of the pre-tender meeting were provided to the four companies that attended.

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

- 1 Addition to technical specification and addition of Asbestos Extract Register 2010. (issued 7 May 2010)
- 2 Amendment to technical specification and Request for Tender. (issued 11 May 2010)
- 3 Issue of Pre-tender Meeting minutes. Addition of Schedule 18 Technical Data. (issued 24 May 2010).

Tenders were closed at Council Chambers at 2.00 pm on 27 May 2010.

EVALUATION OF 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 short listed tenders.
- Due diligence checks on preferred tenderers.
- Independent review of the tender selection process.

Tenders were evaluated by a panel of three staff members, one of whom was from a unit other than the one managing the procurement process.

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Director Shire Services prior to tenders being invited. The Contract Development Plan is available on file. Tenders were evaluated using the following threshold and weighted criteria:

Threshold Criteria

- 1 Compliance with tender documents, including lodgement by specified time.
- 2 Ability to manage financial, environmental, operational and safety risk.

Weighted Criteria

- 1 Assessed level of Local Content
- 2 Proposed methodology / construction program.
- 3 Tendered price and structure; as well as any other potential costs to Council.
- 4 Experience and performance in the specific field.
- 5 Energy efficiency of system offered.

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

Assessment of Receipt

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

Tender No.	Tenderer	Tender Lump Sum (Ex. GST)	Status
1	Air Conditioning Industries Pty Ltd	\$199,792.00 \$203,792.00* (adjusted)	Submitted on time
2	Arctic Air Conditioning Pty Ltd	\$149,025.00 \$153,825.00* (adjusted)	Submitted on time
3	Church Air Conditioning Pty Ltd	\$478,640.00	Submitted on time
4	Dalkia Technical Services Pty Ltd (Offer 1)	\$230,220 \$247,900.00* (adjusted)	Submitted on time
5	Dalkia Technical Services Pty Ltd (Offer 2)	\$219,973.00 \$237,653.00* (adjusted)	Submitted on time
6	Harvey Air Conditioning Pty Ltd	\$209,445.00	Submitted late (excluded)
7	NSW Air Conditioning Pty Ltd	\$270,289.00	Submitted on time

* Refer to Assessment of Conformance section below.

Tender No 6 (from Harvey Air Conditioning Pty Ltd), was not submitted via the E-tender website. Tender documents were sent to the Contact Officer via email, which was the incorrect method of submission. The documents were also received at 3:05 pm, being after the specified time of closure. In accordance with the Local Government Tendering Regulations late tenders cannot be considered. Accordingly, Tender No 6 was excluded from further consideration.

Tender Nos 1, 2, 3, 4, 5, and 7 were progressed to the next stage of evaluation.

Assessment of Conformance

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

Tender No 1 (from Air Conditioning Industries Pty Ltd), was adjusted as the extended schedule of rates items were not included in the total tendered amount. This adjustment increased the tendered price to \$203,792 as shown in the preceding table. This tender conformed to all requirements and was progressed to the next stage of evaluation.

Tender No 2 (from Arctic Air Conditioning Pty Ltd), did not include Schedule 18, and did not complete Schedules 4, 5, 8, 14, and 15. The tendered amount was adjusted by the Tender Panel to include the schedule of rate items, which were not extended or added into the total amount tendered. This adjustment increased the tendered price to \$153,825 as shown in the preceding table. Notwithstanding these adjustments, the Tenderer proposed use of the Dakin VRV system instead of the DX Split system as specified in the Technical Specification. The concept design was based on DX for cost, maintenance and operational reasons, and the offered units did not offer any of the required benefits for Council. For this alternative to be considered the Tenderer was also required to submit a fully conforming tender. As no fully complying tender was submitted this was not an acceptable alternative. Accordingly, this Tender was considered to be non-conforming and was eliminated from further consideration.

Tender No 3 (from Church Air Conditioning Pty Ltd), included all Schedules, however, Schedules 5, 13, 14, and 18 were incomplete. In addition, the tendered price was also the highest of the seven prices received, and would not be competitive even with high scores in the non-price criteria. The Tender was considered to be non-conforming and was eliminated from further consideration.

Tender Nos 4 and 5 (from Dalkia Technical Services Pty Ltd), did not comply with the General Conditions of Contract as detailed in their submitted Schedule 2. Both Tenders contained proposed conditions seeking to amend the General Conditions of Contract included in the contract in relation to standard requirements for Security, Indemnity, Insurances, Public Liability, Date for Practical Completion, Liquidated Damages and Hazardous Substances. When clarifications were sought by the Tender Panel Dalkia subsequently withdrew these qualifications and departures. Both tenders were adjusted by the Tender Panel to allow for asbestos removal, as the amounts tendered did not allow for this work in the total amounts tendered. These adjustment amounts were relatively small and their inclusion did not give the company a competitive advantage. The Tender Panel noted that Dalkia currently provide air conditioning maintenance services to Council. With the qualifications and departures withdrawn Tender Nos 4 and 5 were progressed to the next stage of evaluation.

Tender No 7 (from NSW Air Conditioning Pty Ltd), did not include Schedule 18, and Schedules 5, 7, and 14 were incomplete. It also submitted the second highest tender price, and this price would not be competitive even with high scores in the non-price criteria. The Tender was considered non-conforming and was eliminated from further consideration.

Following the assessment of conformance Tender Nos 1, 4 and 5 were progressed to the next stage of evaluation.

Short listing

The Panel had intended to short list against Criteria No. 5 – The tendered price and structure. The Panel noted that had all tenders been conforming, based on price only Tender Nos 1, 2, 4 and 5 would have been progressed to short listing.

Tender Nos 1, 4 and 5 were progressed to the next stage of evaluation.

Weighted Evaluation

Evaluation scoring was conducted in two stages ie:

- 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 – Prior to the Application of the Local Preference Policy

To establish the Most Competitive Offer, Tenders were firstly scored against the weighted evaluation criteria (other than Local Content), and are listed below in descending order of weighted evaluation.

Tender No.	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score (Pre application of Local Preference)
			Most Competitive Offer
1	Air Conditioning Industries Pty Ltd	\$199,792.00 \$203,792.00* (adjusted)	86.5
5	Dalkia Technical Services Pty Ltd (Offer 2)	\$237,653.00	83.4
4	Dalkia Technical Services Pty Ltd (Offer 1)	\$247,900.00	81.3

Tender No 1 (from Air Conditioning Industries Pty Ltd), scored highly on price as well as Criterion No. 5, Proposed methodology/construction program. Referees confirmed that Air Conditioning Industries had performed extremely well in projects of all sizes and complexities, including a number of similar size to the Council project. The technical information provided gave a high scoring in the energy efficiency of the overall system offered. Tender No 1 was assessed as the Preferred Offer.

Tender No 4 (from Dalkia Technical Services Pty Ltd) scored lower on tendered price as it was the most expensive of the three tenders assessed. The proposed construction methodology was very detailed and showed a good understanding of the tasks required. Similarly, previous experience and past performance scored well. The technical information provided gave a high scoring in the energy efficiency of the overall system

4.3

Contract CPA/179982 - Replacement of Pope Air Conditioning Equipment in Wyong Civic Centre (contd)

Tender No 5 (from Dalkia Technical Services Pty Ltd) scored moderately on tendered price. The proposed construction methodology was detailed and showed a good understanding of the tasks required. As for Tender 4, previous experience, past performance and energy efficiency received acceptable scores.

Following the evaluation of the weighted criteria, the relativity of tenders remained unchanged, and demonstrated the value and competitiveness of Tender No 1. Tender No 1 was identified as the Most Competitive Offer.

2 Scoring - Following the 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 (Clause E7) to this tender imposed the following criteria in relation to the financial impact of considering a Preferred Offer.

Policy Criteria	Criteria Applied to Tender Assessment
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	\$203,792.00
Financial Impact Limitation To Be Applied to Preferred Offer	\$6,113.80

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 (Pre the application of Local Preference)	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score (Post the application of Local Preference)
			Most Competitive Offer		Preferred Offer
1	Air Conditioning Industries Pty Ltd	\$203,792.00	86.5	\$0.00	86.5
5	Dalkia Technical Services Pty Ltd (Offer 2)	\$237,653.00	83.4	\$37,137.00	84.9
4	Dalkia Technical Services Pty Ltd (Offer 1)	\$247,900.00	81.3	\$37,137.00	82.8

4.3 Contract CPA/179982 - Replacement of Pope Air Conditioning Equipment in Wyong Civic Centre (contd)

Following assessment of Local Content, there was no change to the order of ranking for tenders, ie the most Competitive Offer of Tender No 1 from Air Conditioning Industries was assessed as the Preferred Offer and was therefore progressed to the next stage of evaluation. Air Conditioning Industries Pty Ltd did not detail any local content. Dalkia Technical Services Pty Ltd included use of a local supplier for crane equipment, air equipment and drafting services.

Due Diligence

Tender No 1 from Air Conditioning Industries Pty Ltd was subjected to a financial assessment and referee checks.

Council's independent financial assessor, Kingsway Financial Assessments, provided a satisfactory financial report. Referee checks also confirmed that this tenderer has the ability and experience to complete the works successfully.

The Tenderer has 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 Environmental Management systems.

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 Air Conditioning Industries Pty Ltd possess all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

The amount tendered by Air Conditioning Industries Pty Ltd is within 10% of Council's pre-tender estimate and is considered to represent a reasonable price for the contract works.

PROCESS REVIEW

This evaluation process and recommendations have been endorsed by the Contract Systems Co-ordinator.

RISK ASSESSMENT

General

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

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

Contract Risks

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

Generic Risks

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

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property, and the environment. Mitigated through on-going validation of contractor's insurances, safety, and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

Specific Risks Leading to Contract Variations

The following are the major risks that Council bears in relation to this contract:

- The quality of the design is sub-standard resulting in additional costs during the construction phase. Mitigated by appropriate technical reviews by others to ensure design meets requirements.
- Asbestos will be present in the work site and requires specialists to remove. Mitigated by providing information on the presence of asbestos and ensuring the Contractor has made suitable allowances for its safe removal and disposal.
- The energy efficiency and performance of the proposed equipment does not meet specified requirements. Mitigated by ensuring specified equipment is supplied and installed correctly, and reviewing information provided by the Tenderers to ensure the proposed equipment meets specified energy requirements.

Risk Contingency

The above risks are considered to be Medium for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$20,379.20 (excl GST) representing approximately 10% of the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a high probability that the contract budget of \$224,171.20 (excl GST), which incorporates the contingency allowance, will not be exceeded.

BUDGET

Currently, Project funds of \$240,000 (excl GST) are available from the NSW Waste and Sustainability Improvement Grant Program. Project management costs and consultant fees for design, totalling \$27,828.80 are also to be met from this grant.

To reconcile the current shortfall, it is proposed to transfer an amount of \$12,000 from the Green Energy project, to the Replacement of Pope Air Conditioning project, to give a Total Project Budget of \$252,000 excluding GST. This will allow acceptance of the tender and establishment of an appropriate contingency.

TIME FRAME

The Contract period is 10 weeks from the award of contract. It is anticipated that the work will be completed by November 2010.

APPROVALS

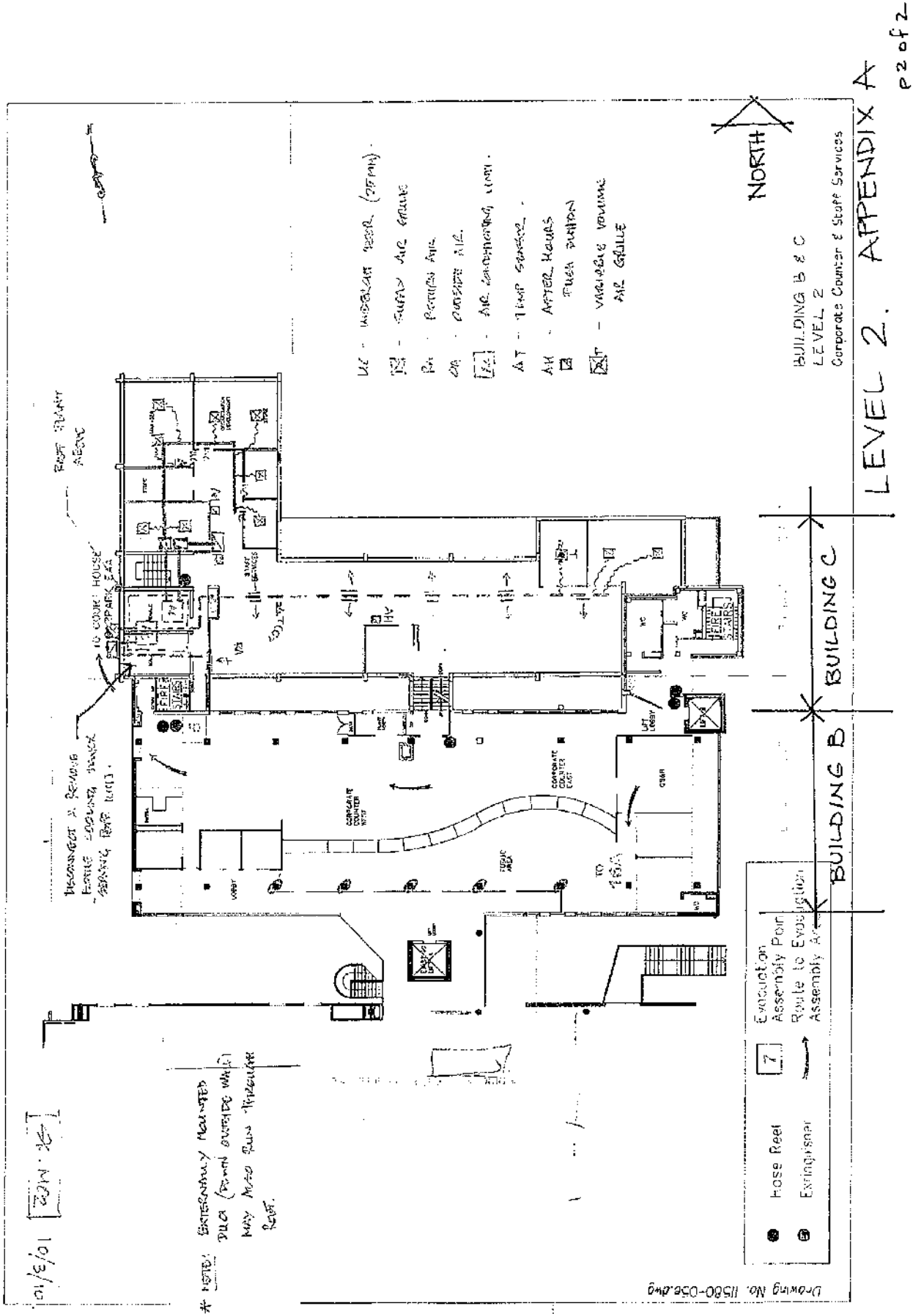
No approvals are required as the work comprises replacement of existing equipment.

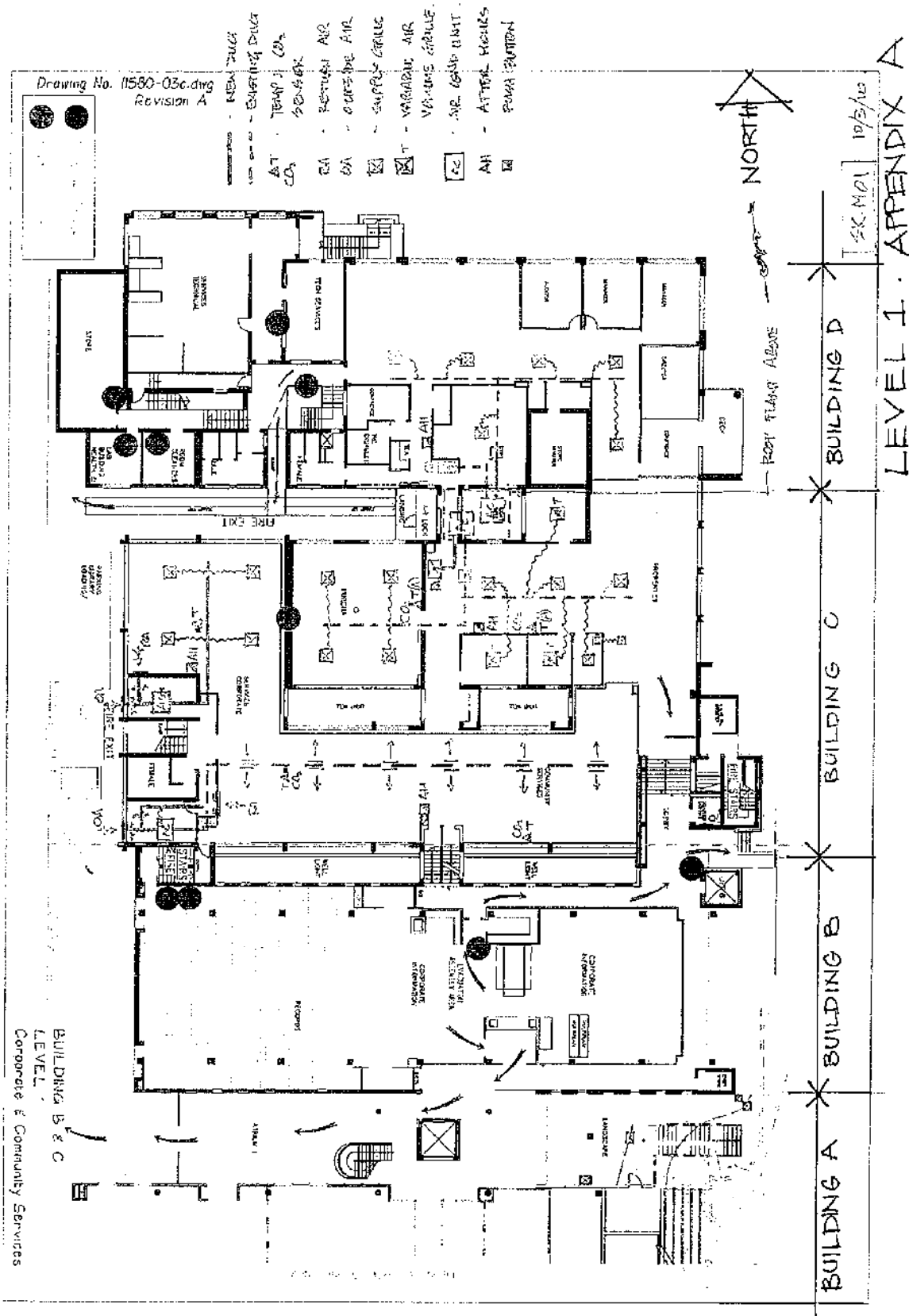
CONCLUSION

Tender No 1 from Air Conditioning Industries 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

- | | | |
|---|--|-----------|
| 1 | Diagrams of Civic Centre - 1 July 2010 - WSC - Replacement of Pope AC Equipment at Civic Centre - CPA/179982 | D02285782 |
|---|--|-----------|





5.1 Establishment of Alcohol Free Zone - Wadalba

TRIM REFERENCE: F2010/00924 - D02255350

AUTHOR: MR

SUMMARY

Proposal to establish an Alcohol Free Zone (AFZ) at Wadalba.

RECOMMENDATION

- 1 ***That Council propose the establishment an Alcohol Free Zone in Wadalba until 30 June 2013 at the following location:***

Wadalba: in the area opposite the Dam Hotel along Figtree Blvd from the Pacific Highway going south along Van Stappen Road to the Wadalba Sports Facility.

- 2 ***That Council complete the required public consultation process and advise the NSW Anti-Discrimination Board of the proposal.***
- 3 ***That Council determine the extension of the Alcohol Free Zone upon receipt of a report at a later date, following the public consultation process.***

BACKGROUND

Alcohol Free Zones (AFZ's) were introduced to Wyong Shire many years ago as a means of controlling anti-social behaviour resulting from the consumption of alcohol. Established by Regulation the zones may be set for a maximum period of four years. The current proposal is set to expire in three years in order to coincide with existing AFZ's which will be due for renewal at that time.

THE PROPOSAL

The proposal was received from Lakes Community Precinct Committee which has requested Council to consider the establishment of an AFZ in the area opposite the Dam Hotel along Figtree Boulevard from the Pacific Highway going south along Van Stappen Road to the Wadalba Sports Facility. A map of the area proposed is at the end of this report.

OPTIONS

- 1 Approve the introduction of the AFZ. The evidence of social behaviour improvement since the introduction of AFZs is clear and has received favourable support from Police. Continuation of the AFZs is desirable if continued improvement in behaviour is to be achieved.
- 2 Refuse the extension of the AFZ. This action may result in an increase of complaints regarding anti-social behaviour in the area concerned.

STRATEGIC LINKS
Management Plan

<i>Principal Activity</i>	<i>Key Issue(s) and Objective (s)</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Community	A connected community where residents positively interact and participate in the life of their community, have a sense of belonging and a strong interest in local and regional issues.	1.1.17 Community Liaison

Contribution of Proposal to the Principal Activity

The proposal will enhance the quality of life of the Shire's residents (both now and in the future) by working in partnership with government, nongovernment agencies and community groups to address crime and safety issues.

The proposal assists ongoing efforts to reduce the incidence of vandalism across the Shire.

Principles of Sustainability

AFZs act as a deterrent for anti-social behaviour to improve and maintain safety, wellbeing and sense of community.

CONSULTATION

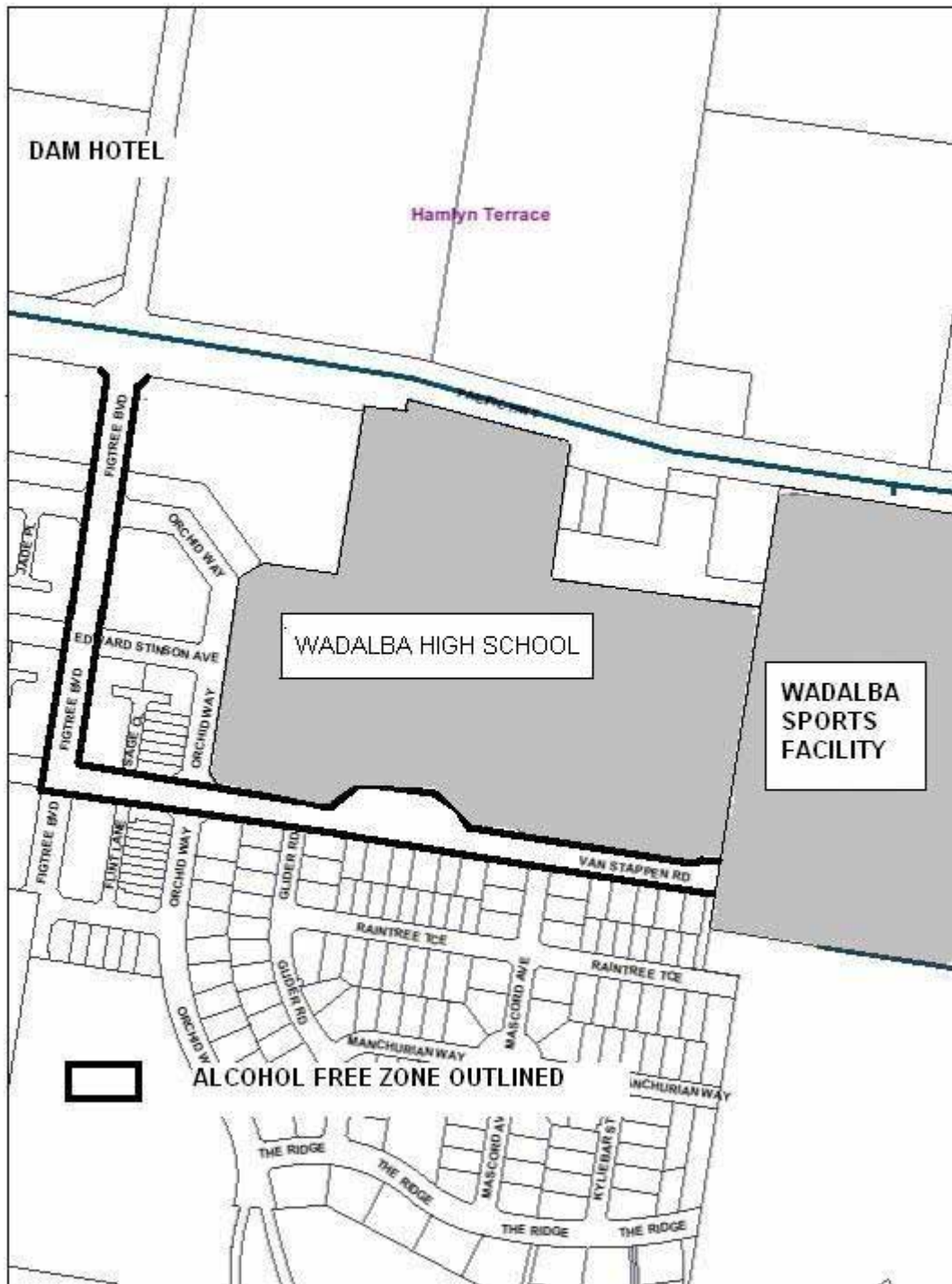
The Tuggerah Lakes Local Area Command of the NSW Police has advised it supports the establishment of this AFZ at Wadalba.

The local police Command considers these zones will continue to aid Police in controlling anti-social behaviour minimise the disturbances that can be caused by drinking of alcohol in public places and create a better environment for the residents of the areas.

GOVERNANCE

The proposal is in accordance with section 632 of the Local Government Act. The procedures outlined in the Ministerial Guidelines are addressed.

It should also be noted that Council owned land such as reserves and cycleways are not classified as a public road or car-park and therefore cannot be included within an Alcohol Free Zone. However, under section 632 of the Local Government Act ordinance signs are located on these properties which prohibit amongst other things, the consumption of alcohol.



CONCLUSION

There will be benefit to the community if Council supports the establishment of an Alcohol Free Zone in the Wadalba area. A consultation process will be conducted and the proposal will be resubmitted to Council for determination following the public consultation process.

ATTACHMENTS

Nil

5.2 Establishment of Alcohol Free Zone - San Remo

TRIM REFERENCE: F2004/06077 - D02267210

AUTHOR: SW

SUMMARY

A proposal to establish an Alcohol Free Zone (AFZ) within San Remo has been advertised and is submitted for approval.

RECOMMENDATION

That Council formally adopt the proposal to establish an Alcohol Free Zone at the following location for a period up to 30 June 2013:

San Remo: The whole of Scribbly Gum Close and Brava Avenue and part of Goorama Avenue, Costa Avenue and Pacific Highway.

BACKGROUND

At its meeting held on 28 April 2010, Council considered a report concerning the establishment of an AFZ extension at San Remo and resolved the following:

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

- 1 That Council prepare a proposal for the establishment of an Alcohol Free Zone at the following location for a period up to 30 June 2013:*

San Remo: The Alcohol Free Zone would include the whole of Scribbly Gum Close and Brava Avenue and part of Goorama Avenue, Costa Avenue and Pacific Highway.

- 2 That Council complete the required public consultation process and advise the NSW Anti-Discrimination Board of the proposal.*
- 3 That Council determine the establishment of an Alcohol Free Zone upon receipt of a report at a later date, following the public consultation process.*

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

AGAINST: NIL

THE PROPOSAL

The proposal was advertised in the Central Coast Express on 26 May 2010 and no objections were received during the statutory 14 day period.

OPTIONS

- 1 Approve the proposal of the AFZ. The evidence of social behaviour improvement since the introduction of AFZs is clear and has received favourable support from Police. Continuation of the AFZs is desirable if continued improvement in behaviour is to be achieved.
- 2 Refuse the proposal of the AFZ. This action would certainly result in an increase in complaints regarding anti-social behaviour in the area concerned and may be an unpopular decision with the Police.

STRATEGIC LINKS

Management Plan

<i>Principal Activity</i>	<i>Key Issue(s) and Objective (s)</i>	<i>Financial Line Item No and Description</i>
A better community	To contribute to a safe community	1.6

Work in partnership with government, nongovernment agencies and community groups to address crime and safety issues.

Ongoing efforts to reduce the incidence of vandalism across the Shire.

Principles of Sustainability

AFZs act as a deterrent for anti-social behaviour to improve and maintain safety, wellbeing and sense of community.

CONSULTATION

The Tuggerah Lakes Local Area Command of the NSW Police has advised it supports the proposal of the AFZ at San Remo.

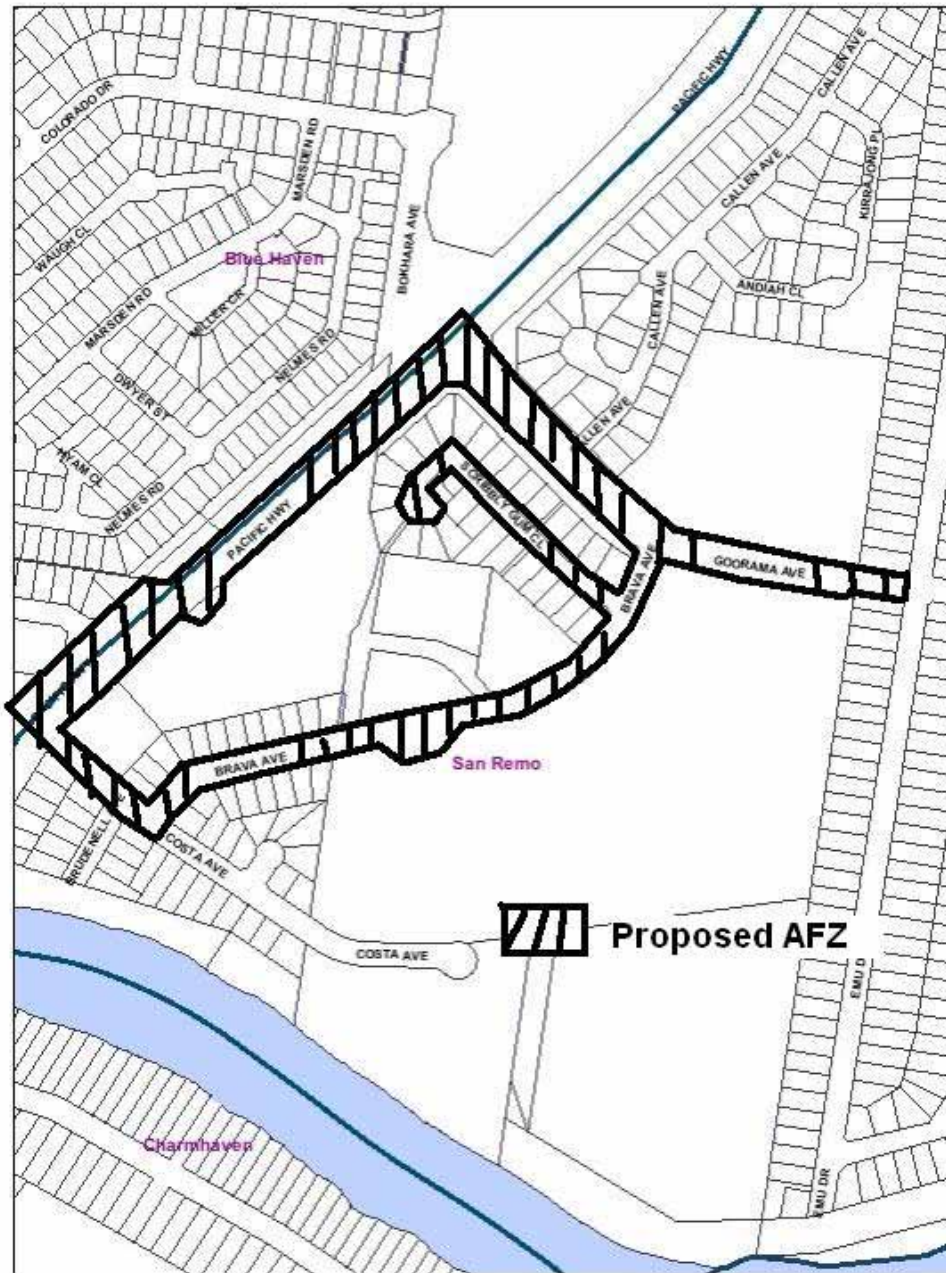
The local Police Command considers these zones will continue to aid Police in controlling anti-social behaviour, minimise the disturbances that can be caused by drinking of alcohol in public places and create a better environment for the residents of the areas.

GOVERNANCE

The proposal is in accordance with section 632 of the Local Government Act. The procedures outlined in the Ministerial Guidelines are addressed.

It should also be noted that Council owned land such reserves and cycleways are not classified as a public road or car-park and therefore cannot be included within an Alcohol Free Zone. However, under section 632 of the Local Government Act ordinance signs are located on these properties which prohibit amongst other things, the consumption of alcohol.

Locality Plan



CONCLUSION

Council may now resolve to establish the AFZ within the San Remo area to expire on 30 June 2013, the common date of expiry established for AFZ's within the Shire.

ATTACHMENTS

Nil.

5.3 ICTC Society Conference attendance

TRIM REFERENCE: F2004/06517 - D02265368

AUTHOR: ED

SUMMARY

Council has received information in respect of the 11th International Cities, Town Centres and Communities Society Conference.

RECOMMENDATION

- 1 ***That Council authorise interested Councillors to attend the 11th International Cities, Town Centres and Communities Society Conference.***
- 2 ***That Council meet reasonable expenses incurred in Councillors attending the conference in accordance with Council's Facilities and Expenses Policy for Councillors.***

BACKGROUND

In accordance with the provisions of Council's Facilities and Expenses Policy for Councillors, a Councillor may attend a maximum of three conferences per year excluding the NSW Local Government Association Annual Conference. Reasonable expenses incurred in Councillors attending the conferences will be met in accordance with that policy.

Details of conferences, seminars and external training sessions are provided for determination of Councillor Attendance.

THE PROPOSAL

11th International Cities, Town Centres and Communities Society Conference

The 11th International Cities, Town Centres and Communities Society Conference will be held in Coffs Harbour, NSW, between 12 and 15 October 2010. The Conference will cover such issues as:

- * Sustainable Cities and Towns
- * Community Building and Consultation
- * Creating a Community Vision
- * Real Challenge – Changing Regional Building
- * Comparing the Options for Town Centre Management
- * Planning for Health and Wellbeing

Councillor Eaton has expressed an interest in attending this conference.

Financial Implications

The table below indicates the cost for attendance at the Conferences and associated travel expenses per Councillor:

5.3 ICTC Society Conference attendance (contd)

11th International Cities, Town Centres and Communities Society Conference Attendance Costs	(\$)
Registration (early bird rate) - member	\$895
Travel (Council vehicle)	\$150
Accommodation (based on approx \$150 per night)	\$600
Other disbursements (meals, taxis etc) say	\$400
Total - estimate	\$2,045

Principles of Sustainability

Nil.

CONSULTATION

The Facilities and Expenses Policy for Councillors has been advertised with no submissions received.

GOVERNANCE

In accordance with the provisions of Council's Facilities and Expenses Policy for Councillors, Councillors are encouraged to attend conferences, seminars and external training sessions that will support their professional development as a Councillor. Reasonable expenses incurred in Councillors attending the conferences are met in accordance with that policy.

CONCLUSION

The Conference listed would be of benefit to the professional development of Councillors and attendance is encouraged.

ATTACHMENTS

Nil.

5.4 Payment of Public Liability Professional Indemnity Insurance Policy

TRIM REFERENCE: F2010/00467 - D02273564

AUTHOR: DS

SUMMARY

Approval is required to renew Council's Public Liability/Professional Indemnity insurance with Statewide Mutual.

RECOMMENDATION

- 1 That Council approve the renewal of Council's Public Liability/Professional Indemnity insurance policy with Statewide Mutual for the period 30 June 2010 to 30 June 2011.**
- 2 That Council approve the premium payment of \$476,900 ex GST.**

BACKGROUND

Council's broker, Jardine Lloyd Thompson (JLT), has arranged renewal of Council's Public Liability Professional Indemnity insurance with NSW Local Government (Jardine Lloyd Thompson) Mutual Liability Scheme known as Statewide Mutual, for the period 30 June 2010 to 30 June 2011.

Council is a member of the Statewide Mutual program providing access to policies such as Property, Public Liability/Professional Indemnity, Council & Officers Liability and Fidelity Guarantee at very competitive prices and coverage, through Statewide Mutual.

Statewide Mutual is a fund made up of the majority of New South Wales' councils. The contributions made by councils by way of total premiums, provide significant buying power and enable Statewide to provide these classes of cover with the high limits councils require.

The ceiling limits for both Property and Public/Professional Indemnity insurance are currently unobtainable in the Australian insurance market. In order for JLT to seek alternative terms for these risks an approach to Lloyd's and London insurance market would be required and such an exercise would be costly and time consuming.

WSC has been a contributor to this scheme for many years. To withdraw, Council is required to give at least three months written notice prior to the end of the financial year.

PROPOSAL

The premium applicable to Wyong Shire Council (WSC) for this insurance renewal is \$476,900 ex GST and is the same premium as the current year. Limits of protection under this policy are: -

- Public Liability \$400,000,000
- Products Liability \$400,000,000
- Professional Indemnity \$300,000,000

5.4 Payment of Public Liability Professional Indemnity Insurance Policy (contd)

Council shall bear the first \$50,000 of each and every Occurrence or Claim (in respect of Professional Indemnity).

OPTIONS

There is no advantage for Council to pursue its own tender process as there are no available competitive insurers within Australia offering this insurance. Statewide Mutual arranges very competitive insurance through the overseas markets for NSW Councils.

MANAGEMENT PLAN

Refer Clause 5.1.3 - Risk Management. Organisation is to ensure Public liability/Professional Indemnity cover for Council is in place.

GOVERNANCE

Local Government Act 1993 – Section 382 requires Council to make arrangements for insurance against public liability and professional indemnity.

CONCLUSION

Adequate insurance cover is mandatory and best practice. Prospecting for international suppliers will be costly and difficult for WSC and has low chances of success.

Cover is only available from a single Australian supplier and combining WSC buying power with NSW Councils provides the best deal possible.

ATTACHMENTS

Nil.

5.5 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2010/01723 - D02274497

AUTHOR: SG

SUMMARY

Councillors propose the following allocation of funds for expenditure from Councillors' Community Improvement Grants (CCIG).

RECOMMENDATION

- 1 ***That Council allocate an amount of \$9,409.00 from the 2009-10 Councillors' Community Improvement Grants as outlined in the report.***
- 2 ***That Council allocate an amount of \$5,799.00 from the 2010-11 Councillors' Community Improvement Grants as outlined in the report.***

BACKGROUND

Provision has been made in Council's Management Plan for each Councillor to recommend to Council the donation of funds to individuals, local service, charitable or community organisations that operate in the Shire or provide a benefit specifically to the residents of the Shire.

Donations may also be made to individuals or groups in pursuit of excellence, including sporting and cultural excellence, subject to CCIG Policy. Funds may also be allocated for emergency assistance in the event of natural disasters such as bushfires, flood or drought anywhere in Australia, subject to CCIG Policy. The funds are granted subject to approval of the Council as a whole.

THE PROPOSAL

Under Council's Policy, all proposed allocations are subject to the approval of the Council as a whole.

OPTIONS

- 1 Approval of applications as submitted will provide a community benefit residents of the Shire.
- 2 Non approval could result in assistance not being provided to the community.

STRATEGIC LINKS

Management Plan

<i>Principal Activity</i>	<i>Key Issue(s) and Objective (s)</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Community	Enhance the quality of life of the Shire's residents	1.1.11 – Community Financial Support

5.5 Proposed Councillors' Community Improvement Grants (contd)

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 Key Focus Areas

Funding is available specifically to projects outside of Council's Management Plan.

Financial Implications

Expenditure is approved until the end of the 2009-10 financial year. Unspent approvals lapse 30 June 2010.

Expenditure is approved until the end of the 2010-11 financial year. Unspent approvals lapse 30 June 2011.

Principles of Sustainability

Nil impact.

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 2009-10

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION	Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/07/2009 - 30/06/2010	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	150,000
Expenditure up to and including Ordinary Council Meeting of 23/06/2010	15,000	15,000	13,765	14,549	13,091	12,316	13,108	13,775	15,000	14,575	140,179
Available allocation as at 23/06/2010	0	0	1,235	451	1,909	2,684	1,892	1,225	0	425	9,821
Proposed Allocations for 14 July 2010											
Australian Seabird Rescue Inc (\$3,000)				51	200		200				451
Assist to purchase laptop, including associated programs, video camera and ongoing operational costs											

5.5 Proposed Councillors' Community Improvement Grants (contd)

Councillors' Community Improvement Grants 2009-10 (contd)

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION	Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/07/2009 - 30/06/2010	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	150,000
Expenditure up to and including Ordinary Council Meeting of 23/06/2010	15,000	15,000	13,765	14,549	13,091	12,316	13,108	13,775	15,000	14,575	140,179
Available allocation as at 23/06/2010	0	0	1,235	451	1,909	2,684	1,892	1,225	0	425	9,821
Proposed Allocations for 14 July 2010											
Brackets & Jam Central Coast Inc (\$1,000)								500			500
Gwandalan Public School P&C Association (\$2,236)							500				500
Gwandalan Summerland Point Football Club (\$2,600) (allocated \$2,100)							500				500
Gwandalan Summerland Point Rural Fire Brigade (\$2,785)							592				592
Halekulani Library (\$1,000)								225			225
Karen Knight (Brooke Avenue School Breakfast Club) (\$1,000) (\$600 already allocated)				400							400
Northern Lakes Junior Rugby League Football Club (\$10,000) (\$1,800 already allocated)						1,000					1,000
Rotary Club of Wyong (\$1,000)					150						150
Shelly Beach Surf Life Saving Club (\$2,500)			1,235								1,235
St John Fisher Catholic School (\$597)					597						597
The Entrance Town Centre Management (\$2,000)					150						150
Toukley & District Senior Citizens Club Inc (\$7,970)						100	100			425	625
Toukley Torchbearers for Legacy (\$1,000)								500			500

5.5 Proposed Councillors' Community Improvement Grants (contd)

Councillors' Community Improvement Grants 2009-10 (contd)

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/07/2009 - 30/06/2010		15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	150,000
Expenditure up to and including Ordinary Council Meeting of 23/06/2010		15,000	15,000	13,765	14,549	13,091	12,316	13,108	13,775	15,000	14,575	140,179
Available allocation as at 23/06/2010		0	0	1,235	451	1,909	2,684	1,892	1,225	0	425	9,821
Proposed Allocations for 14 July 2010												
Warnervale Rugby Union Club (\$3,000)	Assist with shade marquees for new Woongarra sportsfields						1,584					1,584
Wyong Public School (\$5,000) (\$353 already allocated)	Assist with an interactive, play space for children with behavioural issues, learning difficulties and disabilities for children from disadvantaged backgrounds					400						400
Total Proposed Allocations for 14/07/2010		0	0	1,235	451	1,497	2,684	1,892	1,225	0	425	9,409
Total Accumulated Allocations as at 14/07/2010		15,000	15,000	15,000	15,000	14,588	15,000	15,000	15,000	15,000	15,000	149,588
Balance Uncommitted as at 14/07/2010		0	0	0	0	412	0	0	0	0	0	412

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
Proposed Allocations for 14 July 2010												
Australian Seabird Rescue Inc (\$3,000)	Assist to purchase laptop, including associated programs, video camera and ongoing operational costs	500			149					500	500	1,649
Central Coast Triathlon and Multisport Club (\$1,800)	Assist with payment of Council invoices for use of Council reserves to run the Club's triathlons, duathlons and off road duathlon	250										250
Gwandalan Summerland Point Rural Fire Brigade (\$2,785)	Assist to improve lighting in night time emergencies such as house fires, motor vehicle accidents and training	100										100
Halekulani Library (\$1,000)	Assist to support volunteer run library with the purchase of books	100										100
Rotary Club of Wyong (\$1,000)	Assist to support fundraiser to distribute to Iris Foundation	100										100

5.5 Proposed Councillors' Community Improvement Grants (contd)

Councillors' Community Improvement Grants 2010-11 (contd)

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
Proposed Allocations for 14 July 2010											
Shelly Beach Surf Life Saving Club (\$2,500)	100										100
The Entrance Town Centre Management (\$2,000)	100										100
Toukley & District Senior Citizens Club Inc (\$7,970)	250										250
Tracey Maguire in conjunction with San Remo Neighbourhood Centre (\$2,254) (\$100 already allocated)		100								500	600
Vision Impairment Support Group (VIP) (\$500)	100										100
Warnervale Rugby Union Club (\$3,000)		500									500
Wyong Drama Group Inc (\$2,000)	100	1,200									1,300
Wyong Zone Primary Schools Sports Association (\$1,069) (\$350 already allocated)						650					650
Total Proposed Allocations for 14/07/2010	1,700	1,800	0	149	0	650	0	0	500	1,000	5,799
Balance Uncommitted as at 14/07/2010	13,300	13,200	15,000	14,851	15,000	14,350	15,000	15,000	14,500	14,000	144,201

ATTACHMENTS

Nil

5.6 Formation of Berkeley Vale, Chittaway Bay, Chittaway Point Community Precinct Committee

TRIM REFERENCE: F2010/01208 - D02279282

AUTHOR: LC

SUMMARY

This report seeks to Council approval for the establishment of a new Community Precinct Committee for the suburbs of Berkeley Vale, Chittaway Bay and Chittaway Point.

RECOMMENDATION

That Council agree to the formation of the Berkeley Vale/ Chittaway Bay/ Chittaway Point Community Precinct Committee.

BACKGROUND

The residents of Berkeley Vale/ Chittaway Bay/ Chittaway Point have held several meetings over the past year to discuss issues that are affecting their community and have put forward a recommendation for the formation of a Community Precinct Committee (CPC).

A CPC is established by resolution of Council, after receiving a recommendation from a public meeting called for the express purpose of considering the formation of such a body. WSC's requirements for the establishment of CPC's require that:

- A minimum of 40 potential members must be in attendance at such meeting.
- In urban areas the boundary of the CPC must conform to one or more suburb boundaries and be populated with at least 5,000 people in densely populated suburbs.

At the most recent meeting of the community, held on 17 June 2010, 45 members of the community were present and the proposed CPC will incorporate three suburbs with a combined population in excess of 5,000.

The recommendation is put forward in accordance with the requirements set out in the Wyong Shire Council Community Precinct Committee Information and Guidelines Booklet and is a result of demonstrated community support for a CPC to be formed and operated under WSC CPC Charter.

THE PROPOSAL

At the community meeting on 17 June 2010 it was recommended that Council appoint a new Community Precinct Committee to serve the areas of Berkeley Vale, Chittaway Bay and Chittaway Point.

The following nominations have been submitted to fill the executive member positions of the Committee to be appointed by Council:

Chairperson	David Diss
Vice Chairperson	Jack Hyde
Secretary	Kristy Knox
Treasurer	Bronwyn Lewis
Publicity Officer	Karen Conwell
Executive Officer	Annette Maat
Executive Officer	Greg Harder
Executive Officer	Veronica McPhee
Executive Officer	Leonie Wright
Executive Officer	Murray Newman

CONCLUSION

Formation of the Berkeley Vale/ Chittaway Bay/ Chittaway Point Community Precinct Committee fulfils the community's wishes to have a local focal point for managing local issues. The process is in accordance with Council's requirements and there is no impediment to the formation of the Committee proceeding.

ATTACHMENTS

Nil.

5.7 Establishment of Policies

TRIM REFERENCE: F2009/00055 - D02281989

AUTHOR: DJ

SUMMARY

Adoption of a formal framework for the Establishment of Policies in Wyong Shire Council.

RECOMMENDATION

That Council adopt the policy for the Establishment of Policies in Wyong Shire Council

BACKGROUND

Council is required by statute to have in place particular policies that are adopted by way of a prescribed process in law.

Policies covered by the statute are:-

- Local Policy for Approvals
- Local Policy for Orders
- Facilities and Expenses Policy
- Code of Conduct
- Code of Meeting Practice
- Development Control Plans.

This group are collectively part of the policy group established by resolution of Council (known as Governance Policies) but vary from other policies of this classification in that each reviewed or new policy/Development Control Plan (DCP) must go to public exhibition and submissions considered before Council completes adoption.

No other policy is required to be exhibited unless Council particularly resolves so.

The Local Government Act 1993 (the Act) and Local Government (General) Regulations 2005 are silent on policies (in respect of process, coverage and content) used by Council or the organisation to support strategic management or service delivery.

Wyong Shire Council (WSC) has numerous organisational, service and Council policies which collectively lack an overarching management arrangement that ensures adequate policy coverage and management.

WSC and Council do not have an established process for originating, considering and adopting organisational policy, governance policy.

WSC does not have a central point of policy administration to ensure comprehensive and cohesive coverage, policy quality or review processes.

The General Manager is accountable for setting all internal operational policy.

THE PROPOSAL

A proposal for administration of policies is an organisational matter within the General Manager's accountabilities.

However, given the requirements of the Act and that the variety of policy types crosses the boundaries between governance and operations, a "device" is required for ensuring that policies adopted by Council and those set by the General Manager, are consistent and adequate in their coverage and quality.

It is proposed that Council adopt a policy covering the Establishment of Policies to clearly demonstrate the responsibilities and transparent processes employed by the Wyong Shire Council

The proposed policy (Attachment 1) sets out, in a standard format, to show

- The responsibilities of Council
- The limitation placed on Council
- The responsibilities of the General Manager
- Processes for adopting a Council Governance Policy
- Processes for adopting a GM organisational policy
- Administrative requirements for the policy portfolios.

GOVERNANCE

The existence of the proposed policy will allow clear lines of accountability between governance and operations.

CONCLUSION

WSC and Council have a complex and extensive portfolio of policies that require a management focus.

Clarity on how policies are to be established and managed will significantly improve the quality and coverage of the portfolio.

ATTACHMENTS

- 1 Establishment of policies - Draft 22-06-10 D02286106

Policy

For the

Establishment of Policies

POLICY No.	CP 03001	Date
Written By	D J Jack	11.08.09
Updated	D J Jack	22.06.10
Gazette Date		
Authority Signature – General Manager		
Authority Signature Mayor & one Councillors (If Required)	
Adopted by Council Resolution (If applicable)		
Reviewed Date		
Amended Date		
Approved by		

A. POLICY SUMMARY

- A.1.** This Policy details the approach taken to establishing and categorising Wyong Shire Council (WSC) policies, as an organisation and as a governing body (Council).

B. POLICY BACKGROUND

- B.1.** The policies of an organisation constitute the support framework for implementation of strategic and annual plans. Policies enable behaviours to reflect Council's plans and the organisation's Vision and Values.
- B.2.** Governance and managerial decision-making is dependent on a robust policy framework if individual behaviours are to be channelled to achieving WSC's desired goals and service outcomes.
- B.3.** All staff, councillors and other stakeholders need to be aware of organisation's formal position on any given matter.
- B.4.** Policies are intricately linked to employment contracts, employee obligations and Elected Member obligations. Clear, formal processes are required to ensure the relationship between such obligations and all policies, is legitimately established and in manner that promotes awareness.
- B.5.** Current, weak policy management processes expose WSC to risk. No clear guidance exists within Wyong Shire Council on the establishment of policies and principles on which policies are based.
- B.6.** Past practice at WSC is characterised by the making of ad-hoc policies and ad-hoc policy establishment. Lack of centralised management of the policy portfolio has created conflicts between policies; disconnections between the intended purpose of a policy and the need for the policy; and finally, an array of differing formats.
- B.7.** Current legislation, and in particular the Local Government Act 1993 (LGA) requires Council to establish formal policy on certain matters.
- B.8.** Council requires the General Manager to meet his/her accountabilities under the Act and to ensure the organisation is operated effectively and efficiently.
- B.9.** Oversight and administration of all policy is a key accountability of the General Manager.
- B.10.** In practical terms a centralised accountability is required to ensure robust policy administration in terms of :-
- a. Policy establishment processes,
 - b. Review timetables are set and managed,
 - c. Format and clarity of expression/meaning are maintained,
 - d. Supporting procedures are in place as required,
 - e. Policy construction and coverage is cohesive overall.

C. DEFINITIONS

- C.1.** **The Act** shall mean the Local Government Act 1993
- C.2.** **Council** shall mean the elected members who form the governing body (Council) of the Wyong Shire Council.
- C.3.** **Wyong Shire Council (WSC)** means the organisation established to administer Council affairs and operations and Council policy and strategies.
- C.4.** **Plans** means Council's Four Year Delivery Plan, Annual Management Plan, Shire Plan, Development Control Plans Local Environment Plan and/or Long Term Financial Strategy (Strategic Plan).
- C.5.** **Council Policy** means policy created and approved by the elected members of the Wyong Shire Council.
- C.6.** **Organisational (Operational) Policy** means policy created by the General Manager for operational purposes including the implementation of Council resolutions, decisions and Council policy.
- C.7.** **Policy Author** – means the person who originates a policy and is responsible for writing (or having it written) the first draft for circulation and comment.

D. POLICY STATEMENTS**Jurisdiction**

- D.1.** This policy covers all elected members of the Wyong Shire Council, all personnel employed by WSC, any person or organisation contracted to or acting on behalf of the WSC, any person or organisation employed to work on WSC premises or facilities and all activities of the WSC.
- D.2.** This policy does not confer any delegated authority upon any person.

Establishment of Policies

- D.3.** Three classes of policy shall be established – all policies must be classified as either :-
 (a.) Council Policy - (includes that required by law and regulations and DCP policies)
 (b.) DCP– effectively a group of external control policies.
 (c.) Wyong Shire Council Organisational Policy
- D.4.** Council shall establish and operate all policies specifically required by the Act.
- D.5.** Where a policy is desirable or required on a matter for which a Council resolution or by-law is required by the Act, Council shall establish such policy by resolution.
- D.6.** Council shall determine by resolution, strategic service policy (classes of services to be provided) annually and the overall quality standard of each service required, for inclusion in plans.
- D.7.** Council committees, advisory groups or individual councillors do not have authority to make policy or utilise Council resources unless approved by an authorised officer with the appropriate delegated powers.

- D.8.** The General Manager shall establish all WSC operational policy (organisational policy).
- D.9.** The General Manager shall establish all policy required to support compliance with the General Manager's statutory obligations under the Act.
- D.10.** Council shall not establish any policy that may be in conflict with the Act or the General Manager's statutory delegations.
- D.11.** The General Manager shall not establish any policy in conflict with Council policy or the requirements of the Act.
- D.12.** Council or the General Manager shall not make any other policy that is in conflict with the Delegations of Authority Policy. Should any unforeseen conflict arise, the terms of the Delegations policy shall prevail.
- D.13.** Policies, once established through Council's nominated process, shall not be materially changed or discontinued by Council until after the end of the following planning year – e.g. a policy formed in February 2010 shall apply to the 2010-2011 planning year without subsequent alteration before July 2011 except where the urgency or risk is deemed to be of a nature that requires a different implementation date.
- D.14.** Upon implementation, no policy may then be varied - either by the Council, General Manager or staff unless the policy concerned specifically provides authority for discretion to vary the application of the policy except where the urgency or risk is deemed to be of a nature that required otherwise.
- D.15.** Council and/or the General Manager, may during a civil emergency only, set aside any policy terms to ensure public safety.
- D.16.** Notwithstanding clauses D.12 and D.13, and subject to the special consultative procedures specified in the Act, Council may, by unanimous resolution, change or discontinue any Council policy at any time.
- D.17.** Council shall make all Local Regulations.
- D.18.** Policies shall be recorded in electronic format. "Hard" copies only will be maintained in the following locations –
- (a.) Corporate Services (master)
 - (b.) Libraries
 - (c.) Public Reception area – main building only
- D.19.** Every policy shall be reviewed in accordance with the procedures of this policy, at least once every term of Council .

E. POLICY IMPLEMENTATION - PROCEDURES

Policy Management.

- E.1.** All policies shall be administrated centrally within WSC by the Manager Governance and Administration to ensure a co-ordinated and common system of administration, correct topic coverage, adoption processes, distribution and communication, access and awareness and a managed review programme.
- E.2.** A policy tracking system shall be maintained on Sharepoint.
- E.3.** All policies shall be accessible on WSC's websites and Intranet as appropriate

Council Policy

- E.4.** Council policy shall be established by resolution of Council on the recommendation of the General Manager.
- E.5.** Individual councillors (or the Mayor) , may originate a Council policy proposal by providing a draft policy in the format required to the General Manager for inclusion in the agenda of an ordinary meeting of Council by way of a Notice of Motion.
- E.7.** Council shall consider the proposal for a minimum of one month and resolve to adopt the proposal (with any amendment of Council's choice) at the next or any subsequent ordinary meeting of Council.
- E.8.** Council policy shall be adopted by resolution of the Wyong Shire Council and signed-off as official policy by the Mayor and the General Manager.
- E.9.** A review of an existing policy shall follow steps E7 & E8.

Organisational Policy

- E.10.** An organisational policy has no validity unless signed as "approved" by the General Manager.
- E.11.** Establishment of organisational policy and/or guidelines shall comply with the following process:-
 - (a.) An organisational policy proposal may only be originated by the General Manager or with the General Manager's approval .
 - (b.) The originator is the Policy Author (ref definitions).
 - (c.) Draft proposals shall be placed before the "owning Director" for consideration and comment.
 - (d.) Final drafts shall be formulated by the Policy Author and circulated for consultation with staff (as appropriate) .
 - (e.) Feedback from consultation may be incorporated into the final policy document
 - (f.) The policy will be formalised as official on sign-off of the General Manager.
 - (g.) Policy manuals and electronic media are then updated.

Policy Reviews

- E.12.** Organisational policy reviews shall be conducted in accordance with the steps detailed in E.11 (c) to (f) above.
- E.13.** The Manager Governance and Administration shall ensure a policy review programme is maintained that provides a regular review cycle for every policy.
- E.14.** Policy reviews shall be conducted by the department who originated the policy unless instructed otherwise by a Director or the General Manager.

General Administration

- E.15.** All policies shall be recorded in a Policy register which shall include a comprehensive policy tracking model to ensure timely reviews.
- E.16.** The Policy register shall be available to all Councillors and all staff and maintained by the Manager Governance and Administration.
- E.17.** Policies may be accessed via WSC's website and via the intranet under secure conditions.
- E.18.** Policies shall be drafted and approved in the official WSC format.

ATTACHMENTS

Nil

5.8 Access from F3 Freeway to Hue Hue Road

TRIM REFERENCE: F2007/00245 - D02271039

AUTHOR: RB; SMcD

SUMMARY

Following Council's resolution of 14 April 2010, a report has been prepared on possible construction methods and costs involved in converting the emergency access from the F3 Freeway to Hue Hue Road as a permanent left in/left out facility. The cost to provide permanent northbound exit and entry ramps for the Freeway at Hue Hue Road, with associated works, is estimated to cost in the order of \$45 million.

RECOMMENDATION

- 1 That Council receive the report on Access from F3 Freeway to Hue Hue Road.**
- 2 That taking into account the cost of constructing an interchange at this location and that it is highly unlikely that the RTA would give its concurrence, Council take no further action to pursue the proposal.**

BACKGROUND

At the Ordinary Meeting held on 24 February 2010 Council resolved as follows:

"RESOLVED unanimously on the motion of Councillor Eaton and seconded by Councillor McNamara:

That staff report on the feasibility of converting the new emergency access from the Hue Hue Road, Alison to the Freeway to permanent left in left out access.

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

AGAINST: NIL"

In accordance with the above resolution, a report was submitted to Council on 14 April 2010. At this meeting Council resolved as follows:

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

- 1 That Council note the report on the feasibility of converting the new emergency access from Hue Hue Road, Alison to the Freeway to permanent left in left out access.**

- 2 That Council's engineers submit a further report on possible construction methods and costs involved in converting this access to permanent left in/left out.

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

AGAINST: NIL"

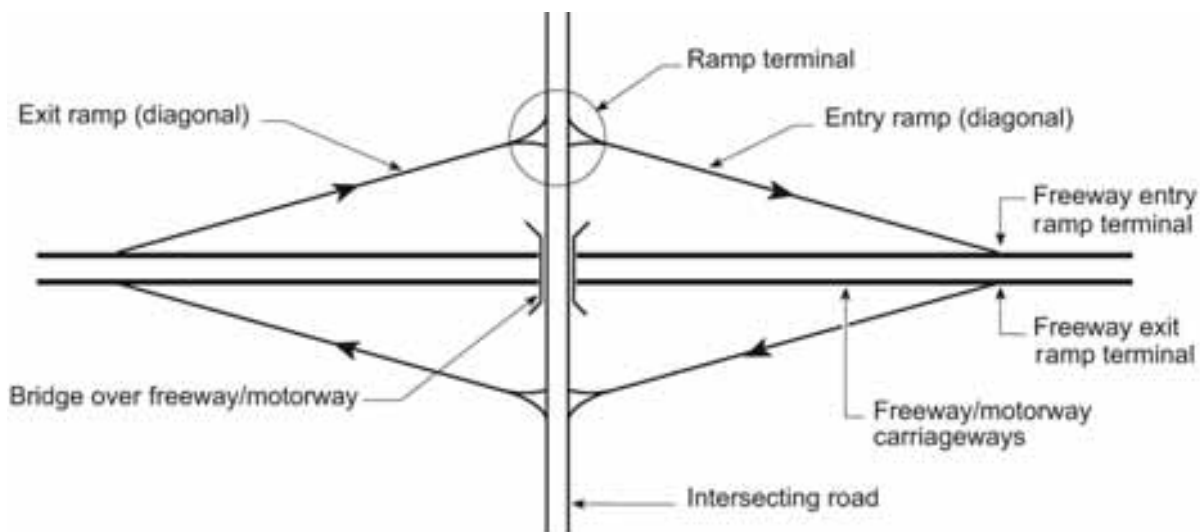
This report addresses Resolution No 2 above.

CONSTRUCTION OF INTERCHANGE FOR NORTHBOUND FREEWAY ENTRY AND EXIT

The provision of permanent northbound access to and from the F3 Freeway at this location would require the construction of a half "Diamond" interchange (similar to the interchange at Tuggerah but on the western side of the Freeway only), with deceleration and acceleration lanes, exit and entry ramps and a signalised intersection with Hue Hue Road.

Freeway interchanges are designed in accordance with Austroads "Guide to Road Design Part 4C: Interchanges".

The diagram below shows a typical layout for a full Diamond Interchange:



(a) Example of a diamond interchange with diagonal ramps

At the location of the existing emergency access north of Alison Road, Hue Hue Road is parallel with the Freeway and approximately 20 metres to its west. In order to construct the Ramp Terminal as indicated on the above diagram, Hue Hue Road would need to be diverted approximately 80 metres west to allow for the required tapers of the exit and entry ramps. A signalised intersection at the intersection of the ramp terminal and Hue Hue Road would be required. In order to relocate Hue Hue Road a distance of 80 metres away from the freeway, based on the existing 90km/h speed limit, approximately 1km of new road construction would be required.

Freeway exit and entry ramps provide for changes in speed limits (110km/h to 60km/h for exit ramps and 60km/h to 110km/h for entry ramps). These speed limit changes cannot be accommodated on the Freeway deceleration or acceleration lanes, as the relevant signage would be visible to freeway traffic and hence enforceable. Exit ramps also allow for storage of stationary vehicles at the ramp terminal which, if permitted in the deceleration lane, would have significant safety implications.

In order to reduce the impact on the existing cut batter north of Alison Road, the 800 metre northbound deceleration lane could be contained within the existing western travel lane and a new through lane constructed within the central median.

However, the roadwork required to realign the freeway would be in the order of 2 kms. Significant works would also be required to protect the Alison Road bridge pylon as the distance between the inner travel lane and the pylon would be reduced to approximately 4 metres.

A plan showing the works required is attached.

Creating the deceleration and acceleration lanes by realigning the through lanes into the central median will not achieve the RTA's mandatory distance of 2 kilometres between the end of the acceleration lane and the start of the deceleration lane to the service centre.

The most appropriate access to the freeway for northbound traffic generated from the Wyong Township and Dooralong and Yarramalong Valley's is via Alison Road and Hue Hue Road, entering the freeway at Sparks Road. The interchange for Sparks Road and the freeway is a full diamond interchange allowing all turning movements to and from the freeway.

Council has recently completed improvements to Hue Hue Road, including pavement rehabilitation and re-linemarking.

PROPERTY ACQUISITION

Property acquisition to accommodate the realignment of Hue Hue Road and freeway interchange is estimated to be in the order of 60,000 m² or 6 Hectares. This estimate is based on the area of the existing road reservation west of the freeway at the Tuggerah Interchange. It is anticipated that given there is a significant amount of land required from several of the affected properties, voluntary acquisition would be unlikely.

ESTIMATED COST

The estimated cost to construct a half Diamond Interchange including the realignment of Hue Hue Road, construction of traffic signals at the intersection of the entry/exit ramps and Hue Hue Road and realignment of northbound through lanes on the freeway is in the order of \$40 million.

The construction of a half Diamond Interchange at the suggested location will re-distribute a significant volume of traffic to Alison Road and Anzac Avenue and through the Wyong Township. It is anticipated that the intersection of Alison Road and Hue Hue Road would immediately require upgrading to accommodate the increased turning movements. This will include widening of the existing freeway overpass. Further works may be required on the local road network based on the additional traffic generated and existing levels of safety.

The estimated cost to upgrade the Alison Road / Hue Hue Road intersection is in the order of \$2 million. The strategic estimate of cost to widen the existing freeway overpass to accommodate the additional traffic queuing at the new intersection is in the order of \$3 million.

CONCLUSION

Access to the F3 Freeway at the recently upgraded emergency access north of Alison Road was designed for use during major traffic incidents only and would operate under a 40km/h speed limit. This incident management system was developed to allow northbound traffic to be diverted off the freeway onto Hue Hue and southbound traffic to travel contra-flow along the freeway at low speed around an incident site.

The estimated cost to construct a suitable permanent northbound interchange at this location, in accordance with current design standards, is in the order of \$40 million.

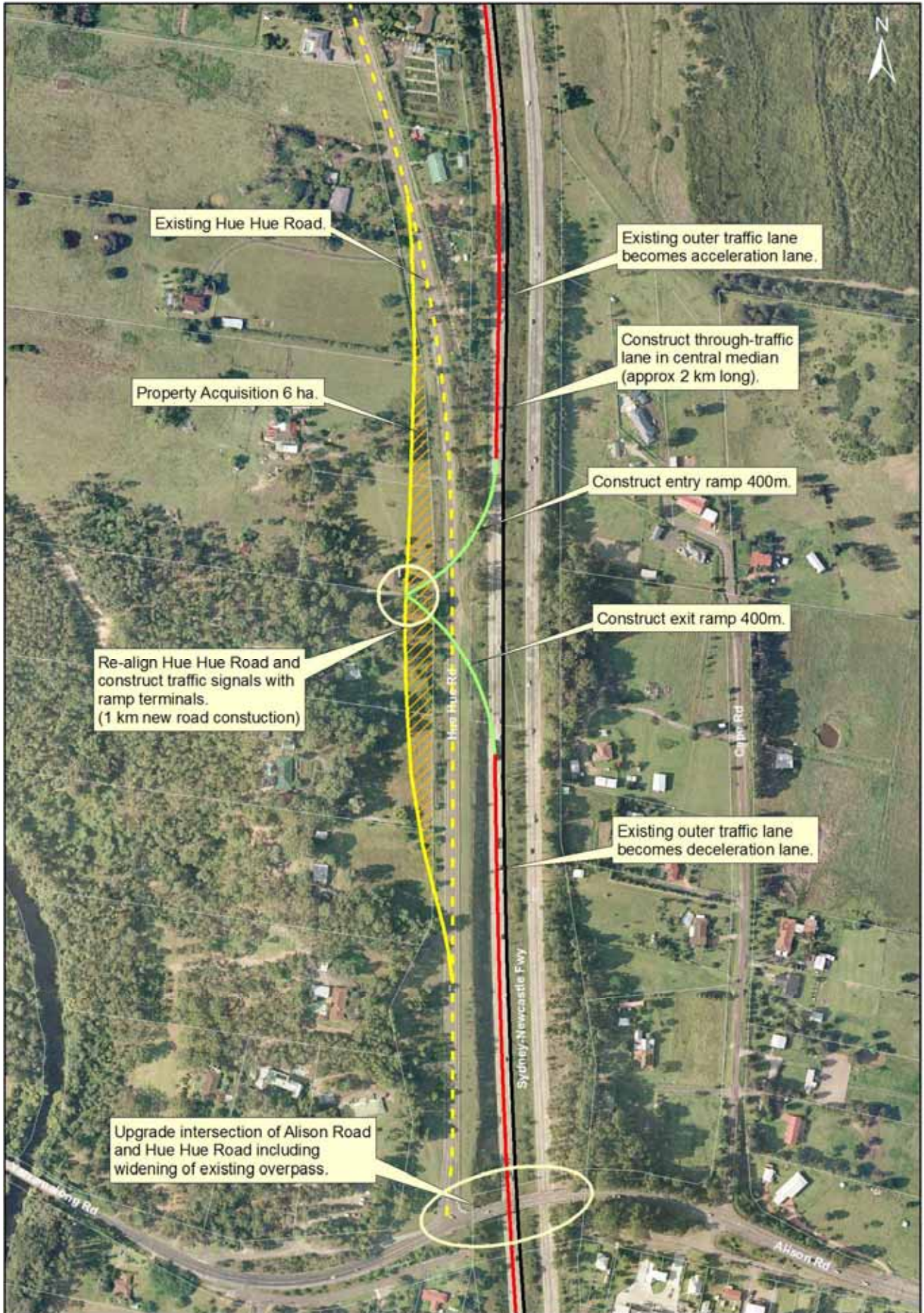
The construction of a permanent northbound interchange at this location will necessitate immediate upgrading of the Alison Road / Hue Hue Road intersection estimated to cost in the order of \$2 million and widening of the existing freeway overpass on Alison Road estimated to cost in the order of \$3 million. Therefore the total cost for the project is estimated to be in the order of \$45 million.

The distance between the acceleration lane from the Hue Hue Road / Freeway access and the deceleration lane to the service centre does not meet the RTA's mandatory requirement of a minimum of 2 kms between the end of an acceleration lane and the commencement of a deceleration lane on Freeways.

On the basis that the cost of constructing an interchange at this location would be significant ie; in the order of \$45m and it is highly unlikely that the RTA would give it's concurrence for the construction of the intersection, it is recommended that Council take no further action to pursue the proposal.

ATTACHMENTS

- 1 Plan showing works required for Hue Hue Rd_Freeway connection July 2010 D02271688



5.9 Wyong Shire Cultural Centre

TRIM REFERENCE: CPA/159128 - D02288371

AUTHOR: SS

SUMMARY

This report provides an update on the development of the Wyong Shire Cultural Centre (WSCC) and concurrent programs as resolved by Council on 26 May 2009. It outlines the progress of the WSCC designs, construction cost estimates, the working party, fund raising strategy, Regional Cultural Strategy and the nature of the regional performing arts environment.

RECOMMENDATION

- 1 ***That Council endorse changing the name of 'Wyong Shire Cultural Centre' to the 'Central Coast Arts and Conference Centre'***
- 2 ***That Council endorse the centre concept design including a 500 seat theatre venue with construction and design cost estimates as approximately \$18.0M (building only cost approximately \$11.7M) for Stage 1 and approximately \$24.0M (building only cost approximately \$15.5M) for Stages 1 and 2.***
- 3 ***That Council note there is likely to be an estimated annual gross recurrent cost to Council of approximately \$2.0M (including, staffing, running costs, maintenance and depreciation).***
- 4 ***That Council endorse the implementation of the Fund Raising and Promotional Strategy outlined within this report to secure funds to construct Stages 1 and 2.***

BACKGROUND

In 2006 Council commissioned the Wyong Performing Arts Centre Feasibility Study (Tonkin Zulaikha Greer (TZG) Architect 2006) which identified a shortfall in cultural infrastructure in the northern part of the Central Coast and recommended establishment of an arts centre based in the Wyong township to address this shortfall.

At its meeting held on 23 August 2006, Council resolved to proceed with development of an arts centre with a diversity of cultural uses but focusing on the performing arts. Both the Wyong Performing Arts Centre Business Plan (Positive Solutions 2007) and the Wyong Performing Arts Centre Design Brief were developed to establish the business case and design requirements for the centre.

Following a peer review of the Business Plan and Design Brief at its meeting held on 27 May 2009, Council resolved the following:

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

5.9 Wyong Shire Cultural Centre (contd)

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

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

AGAINST: NIL.”

Following the Wyong Shire Cultural Centre Tender Design process, in December 2009 Council resolved to accept the tender of TZG Architects to design the WSCC in accordance with the Design Brief for the lump sum amount of \$1,080,746 excluding GST with a contingency of \$108,075 excluding GST.

The WSCC design brief required the design to be constructed in two stages and include a 450 seat theatre, 150 retractable seat studio, support facilities, large foyer area, exhibition space, café and loading dock.

Council also contracted David Grinstead as an independent theatre consultant for advice and Northcroft as an independent cost consultant to provide a cost estimate for construction at key stages of the design development.

All key stages of the project since 26 May 2009 were undertaken with stakeholder advice provided through meetings of the WSCC Working Party.

Concurrent to the development of the Arts Centre since 2007, Council's Cultural Planner has liaised with Gosford City Council's (GCC) Arts and Cultural Unit in planning the development of a Regional Cultural Development Strategy as suggested by ArtsNSW in 2007. These discussions continued until mid 2008 after which no progress was made on the Regional Cultural Strategy until a meeting was secured with GCC Gosford Challenge to re-establish the joint cultural planning process by both Councils in May 2010.

INTRODUCTION

The WSCC is proposed as a multi-arts facility, including a theatre, which would significantly address the identified shortfall in arts facilities for the growing Central Coast population. Its business plan, proposed programming, staffing, location and design have all been developed to fulfil the requirement for a accessible, equipped, staffed and flexible facility.

A Network of Arts Facilities

The WSCC is to be positioned as the lead facility in a Wyong Shire network of coordinated arts facilities including the Entrance Gallery and Studio (2009) and the Toukley Art Gallery (2001). This network is planned to function within a broader regional network that includes the Gosford Regional Gallery, Laycock Street Theatre, Gosford Arts Precinct and the Peninsula Theatre (see Attachment 2).

The recommendation of such a network by Wyong Shire Council is to ensure that the needs of a wide range of community creative activities can be met by a range of linked facility types and the planning of arts infrastructure does not disadvantage any residents due to their geographic location.

Vision

“The Centre will be a community hub for Wyong Shire – a place for meeting and interaction, a place which enjoys a wide sense of community ownership, and which contributes to the vitality of the Shire. The Centre will be active day and night ...”
(Wyong Performing Arts Centre Business Plan, Positive Solutions 2007)

Programming and Patronage

The business case and design will enable the WSCC to support existing and increased future participation in the arts and provide a program of amateur, professional, local, touring, developing and established arts activities and products.

The centre will replace the Wyong Memorial Hall and accommodate existing Memorial Hall patrons as well as new ones. The Cultural Development Program is liaising with current Memorial Hall patrons and other stakeholders in developing a program for capacity development and forward planning for their organisations between 2010 and 2014 to assist their transition to a new facility.

DISCUSSION

Timeframe and Key Stages

The updated timeframe for the development of the Cultural Centre is as follows:

Table 1: Project Timeframe

Stages	Timing
Return Brief	Jan 2010
Concept Design	Feb - June 2010
Commence Funding Strategy and Promotional Campaign	May 2010
Masterplan DA Submission	June - July 2010
Masterplan DA Approval	Dec. 2010
Establish Funding Trust	Jan 2011
Commence Construction Documentation	Jan 2011
Complete Construction Documentation	July 2011
Construction Certificate Submission	August - October 2011
Construction Tender	November 2011- February 2012
Construction	March 2012 – January 2014
Opening	Mid 2014

This timeframe keeps the project on schedule for a masterplan DA approval in December 2010. The DA submission will be to the Joint Regional Planning Panel and will be in two stages. The first stage is for the Masterplan (Concept Design) approval, following a DA submission for the sketch design.

Concept Designs for Staged Construction

The concept designs by TZG Architects have been developed to a level that satisfies the brief's requirements. The design encompasses all of the required arts uses, meets the Ecologically Sustainable Development (ESD) and safety requirements, is responsive to the surrounding area and adds value to the Wyong township. The design is for a facility that can be constructed in two stages if required. The design involves a 500 seat theatre which can be reduced to a 200 seat venue via a dividing curtain.

Stage 1 is able to function as a stand alone arts centre, minus the studio, café and rehearsal area and administration located in a temporary demountable office.

Stages 1 and 2 also include the studio, rehearsal space, café, additional dressing rooms, café, gallery, meeting room and permanent administration.

Changing Performing Arts Environment: Reassessment of the WSCC Business Case and Name

Case for a 500 Seat Venue

Following the announcement of a proposed 1,000 seat performing arts venue to be developed jointly by the Central Coast League's Club and GCC it is assumed that the Central Coast performing arts environment is changing sufficiently to warrant a re-assessment of the business case the WSCC theatre operations are based on.

The feasibility analysis and business case behind the WSCC is based on an understanding that GCC will eventually be developing an approximately 1,000 seat Recital Hall in Gosford City, a venue distinctly different in design, purpose and audience market than a drama, musicals and dance facility. The May 2010 update on the Gosford facility describes a 1,000 seat venue that is designed for theatre, dance and musicals and not music recital. This conclusion is based on existing information, including preliminary facility designs, as the Gosford venue (as of yet) does not have a Business Plan specifying planned audience markets, financial and operational management structure and programming.

The re-assessment of the WSCC's viability in the performing arts market is based on which part of the market the theatre would be best positioned to service, and how seat numbers ensure that a desired position can be achieved. Two dance schools from the project Working Party and the project's independent Theatre Advisor were consulted in this assessment regarding the seat numbers with the conclusion that 500 seats would be a preferred minimum number over 450 seats. This number of seats, combined with a capacity to reduce the 500 seat theatre to 200 seats for smaller hirers, along with the 150 seat studio, would position the WSCC to attract national touring theatre shows that the Central Coast currently cannot accommodate and business interest as a conference facility whilst remaining accessible to smaller local productions and projects. The concept designs for the WSCC, including a 500 seat theatre, meet the project design brief and budgetary requirements.

Proposed Name Change: Central Coast Arts and Conference Centre

The re-assessment of the business case in light of the changing environment also considered the appropriateness of the name WSCC. The new name of Central Coast Arts and Conference Centre is proposed as it:

- Reinforces the venue's role in addressing and supporting the needs of Central Coast's creative activities and aspirations.
- Reinforces the facility's position as a key venue in a Central Coast network of arts facilities.
- Clearly communicates the purpose of creativity, connections, enterprise and economic growth.
- Positions the centre as a key facility in economic and cultural planning.
- Provides an identity that local, national and international arts and businesses can connect with.

Table 2: Staged Facility Inclusions

Facility	Stage 1	Stages 1+2
Full Fly Tower	Included	Included
Theatre	500 seats	500 seats
Orchestra Pit	Non-mechanical	Non-mechanical
Foyer	465m ²	465m ²
Dressing Rooms	58 people	82 people
Green Room	46m ²	46m ²
Cafe	-	Included
Rehearsal Space	-	127m ²
Studio	-	150 retract. seats/163m ²

Cafe	-	140m ²
Toilets - Patrons	83.6m ²	83.6m ²
Toilets - Performers	51.5m ²	65m ²
Unfitted Space (Generic)	206m ² Including temporary beverage bar	Gallery 82.7m ² Shop/storage 48m ² Tech space 58m ² Touring 8m ² Stage door 10m ²
Front of House, Merchandise	70.5m ²	70.5m ²
Administration/Meetings	Temp. demountable 110m ²	Permanent office 132m ²
Beverage Bar	<i>See unfitted space above</i>	30m ²
Loading dock	143m ²	143m ²
Scene dock	64m ²	64m ²

The centre floor is raised by 1 metre to meet planning requirements in relation to flooding and overland flow and to ensure that the ground level is level to the loading dock, which also needs to be 1 metre above ground.

Capital and Recurrent Cost Estimate

The capital cost estimate for constructing of the centre based on the 500 seat concept designs, is outlined in the following table.

Table 3: Capital Cost Estimates

Item	Stage 1	Stages 1 & 2
Building Cost		
Base Building	\$10,340,000	\$13,752,000
Escalation 3% at 4yrs	\$1,297,773	\$1,726,014
Sub Total	\$11,627,773	\$15,478,014
Contingency 20%	\$2,327,555	\$3,095,603
Fees		
DA Fee	\$40,000	\$40,000
Project management + consultants fees	\$1,336,885	\$1,386,885
Construction	\$200,000	\$200,000
FEES Sub Total	\$1,576,885	\$1,626,885
Other Costs		
Theatre fit out, seat, loose furniture	\$1,475,500	\$1,475,500
1% Public Art allowance	\$116,378	\$154,780
CAPS relocation & alternative venue budget	\$50,000	\$50,000
OTHER COSTS Sub Total	\$666,378	\$1,680,280
Carparking Section 94 Contribution		
CARPARKING Sub Total	\$2,100,000	\$2,100,000
TOTAL	\$18,298,591	\$23,980,000

Recurrent Cost Projections

The projected gross recurrent cost of the centre, including depreciation, for the life of the building is an average of \$2M per annum. The projected Net operating cost, including depreciation, for the life of the building is an average of \$1M per annum. This would need to be funded from Council's annual budget.

Table 4: Operating Profit and Loss Table

<i>2009 Dollars</i>	Year 1	Year 2	Year 3	Year 4
INCOME				
Gov Funding	\$0	\$0	\$0	\$0
Corporate Sponsorship	\$10,500	\$12,000	\$13,500	\$15,000
Earned Income	\$237,444	\$286,878	\$333,633	\$372,100
TOTAL INCOME	\$247,944	\$298,878	\$347,133	\$387,100
EXPENDITURE				
Staff	\$390,630	\$394,988	\$407,594	\$420,200
Admin and Overheads	\$571,502	\$563,842	\$593,789	\$621,775
Programming	\$75,038	\$62,531	\$55,028	\$50,000
TOTAL EXPENDITURE	\$1,037,170	\$1,021,361	\$ 956,411	\$1,091,975
NET OPERATING RESULT Before Depreciation	(\$789,226)	(\$722,483)	(\$708,495)	(\$704,875)
Depreciation - Buildings	\$122,000	\$122,000	\$122,000	\$122,000
Depreciation – Furniture, Fittings & Equipment	\$171,000	\$171,000	\$171,000	\$171,000
NET OPERATING RESULT Including Depreciation	(\$1,082,226)	(\$1,015,483)	(\$1,001,495)	(\$997,875)

Capital Budget Strategy

To secure the approximate \$24M to fund the capital cost to construct Stages 1 and 2 of the WSCC the following funding sources have been identified.

Table 5: Funding Source

Source	Target \$	Application	Process
Federal Infrastructure Funding	\$7.5M	2011	Funding program
ArtsNSW	\$7.5M	2010/11	Case to Treasury via
WSC	\$7.0M	2011/12	Developer contributions
Donations (Trust)	\$2.0M	2011/12	Fund raising
TOTAL	\$24.0M		

Capital Funding Strategy and Promotional Campaign

The Capital Funding Strategy and Promotional Campaign are linked because the level of community support plays a critical role in the Cultural Centre becoming a priority for State and Federal arts and infrastructure funding, as does the Business Case and consistency with regional planning.

The Capital Funding Strategy and Promotional Strategy are being implemented now and will require involvement of the Working Party members and Councillors. They involve the following:

Lobbying

May/July 2010

Aim: To have Local Members of Parliament understand and support the WSCC case for capital funding:

- Write to and meet State and Federal Local Members, Arts Ministers and their opposition counterparts.
- Support the community and arts groups in lobbying Local.

Communication and Promotion Campaign

May-December 2010

Aim: To channel and grow active support from stakeholders and the wider community to call for funding support for the WSCC.

- Newsletter (May 2010 issue currently distributed).
- Press releases as required.
- Networking and discussion.

Secure a Public Champion (Patron)

July-August 2010

Aim: To recruit a well known and respected arts personality to promote the project.

Regional Liaison and Representation

May-December 2010

Aim: Ensure Wyong Council has a key role in regional cultural planning and development and a profile in the national arts sector:

- Establish communication and joint planning processes with GCC/Gosford Challenge to ensure genuine information exchange and progress is restarted on the regional cultural strategy in accordance with ArtsNSW and NSW Department of the Premier's advice.

Industry Forums

June-August 2010

Aim: To raise the profile, peer support and credibility of the facility to assist in ongoing private and public funding:

- Council to host a Cultural Facilities Forum on 20 August as part of Local Government and Shire's Association (LGSA) arts forums for 2010.
- Present at the June 'Focus on the Coast' forum hosted by Central Coast Regional Development Australia (completed).

DRAFT

Trust Fund

June 2010-2014

Aim: Establish the appropriate vehicle to raise private donations:

- Establish a Trust Board in 2010/early 2011 in accordance with existing plans with Councillors and appointed community members to use the WSCC designs to raise funds.
- Establish a fund raising committee to involve other community members in grass roots fund raising and awareness.

ArtsNSW

March 2010-2014

Aim: Build and maintain the business case for the arts centre from the point of view of the key NSW arts funding body:

- Meet with representatives of ArtsNSW and brief at key stages.
- Regular updates at key stages.
- Submit a Capital Funding application for \$100,000 in 2010 for seating and lighting equipment for use in the Memorial Hall to be transferred to the new centre (completed in June).
- Submit a Strategy and Initiatives matching funding application for a 3 year Arts Facility Program Officer position 2011-2014 to develop programming with stakeholders at Toukley Art Gallery, The Entrance Gallery and Studio and the Wyong Memorial Hall - transition to the new centre (completed in June).

Who's On Board

The project Working Party is:

- Arts and Cultural Unit, GCC
- Central Dance Company
- Darkinjung Land Council
- Fusion Arts Inc
- Gorokan High School
- Grey Wolf Film Studio
- Lee Dance Academy
- NAISDA (Aboriginal Dance College)
- School of Drama, Fine Art and Music, University of Newcastle CC Campus
- Seniors Council
- Supa Art (Fine Art Collective)
- Wyong Chamber of Commerce
- Wyong Drama Society
- Wyong High School
- Wyong Musical Theatre Company
- Wyong Shire Councillors
- Wyong Youth Arts - Wyong Neighbourhood Centre
- XtrAct Drama Academy

Changes in Regional Performing Arts Environment

The Wyong Performing Arts Feasibility Study (2006) and Business Case (2008) were based on the expectation that a 1000 seat Recital Hall was planned for Gosford City at an

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undetermined date in the future. This was based on discussion with the GCC Arts and Cultural Unit and the GCC KPMG Cultural Spaces and Places Framework (2007) which acknowledges and supports the development of an arts centre in Wyong as part of regional development.

The Wyong Performing Arts Feasibility Study and Business Case proposed that the Wyong Arts Centre is an appropriate facility that contributes to the region along with Laycock Theatre and the proposed Gosford Recital Hall. Travel distances, facilities' existing and proposed usage and their distinct roles were considered in coming to this conclusion.

In May 2010, the Central Coast Leagues Club announced its proposal to build a 1000 seat performing arts and entertainment venue in collaboration with the Gosford Challenge at the club's premises in Gosford City. Gosford Challenge is considering the proposal and has been in discussions with State and Federal funding bodies to seek capital funding for the project.

This progress is perceived as both a risk and opportunity to Wyong Council's plans as follows:

- The project presents a risk as the proposed Gosford Arts Centre aims to seek funding and begin construction at the same time as the WSCC – placing both projects in direct competition for funding, media and public support without a developed regional framework supporting both facilities;
- Council was unaware of the proposed Gosford Arts Centre until media announcements, requiring immediate meetings between Council and GCC managers;
- The project provides an opportunity as funding bodies have sought confirmation from GCC that the Gosford Art Centre proposal is placed within a regional cultural framework developed with Wyong Council, providing a requirement for GCC to commit to the development of a Regional Cultural Strategy which would support Wyong's plans;
- The Gosford Art Centre proposal still lacks significant detail on capital and recurrent cost, business plan, management structure and schedule (except for the proposal to start construction in 2011);
- Based on known information, the project requires Council to re-evaluate the WSCC Business Case and building design as the Gosford 1,000 seat facility is no longer a Recital Hall but more likely an entertainment and arts venue seeking the same patrons as the WSCC at a larger scale.

Response:

- Wyong Council has secured agreement with GCC's Gosford Challenge to commit staff to developing a Regional Cultural Framework, modelled on the Western Sydney Arts Strategy as favoured by ArtsNSW, which supports a Central Coast Arts Facility Network: ArtsNSW will be briefed by both Councils on the progress of the Framework in September 2010;
- Wyong Council has requested that GCC establish a means for Wyong Council to be informed and provide comment on the developing Gosford Arts Centre in a similar manner to the WSCC Working Party which has GCC representation;
- The designs of the WSCC have been modified to accommodate an additional 50 seats in the theatre to a total of 500 seats to increase the venue's capacity to attract nationally touring shows and local dance and other performances that need a venue greater than 400 and less than 1,000 seats, this modified design is included in the capital cost budget in this report.

Partnerships

Wyong Drama Group has written to Council wishing to enter into negotiations to exchange specific lease arrangements and access to the WSCC for financial and other support from the Drama group towards building and fit out cost.

It is recommended that Council officers should continue discussions with the Drama Group to develop proposed options for consideration by both organisations that are consistent with the Business Plan with Council seeking further advice from its independent theatre consultant.

FUNDING

No additional funding is required to the amounts already resolved by Council.

ATTACHMENTS

- | | | |
|---|---|---------------------|
| 1 | Operational Profit & Loss Projections June 2010 | D02290161 |
| 2 | Regional Arts Network of Cultural Facilities | D02290128 |
| 3 | Western Sydney Arts Strategy PROGRESS REPORT | D02290136 |
| 4 | WSCC Concept Design TZG Stage B | Enclosure D02290115 |

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WY 2010 Budget
Profit and Loss

\$2000 Dollars	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Government Partnerships	\$0	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0	\$0
Corporate Partnerships	\$10,500	\$12,000	\$13,500	\$15,000	\$15,000
	\$0	\$0	\$0	\$0	\$0
Learned Income					
Viewing Income	\$110,566	\$141,417	\$168,400	\$197,463	\$197,500
Charges Income	\$17,129	\$20,092	\$24,117	\$25,595	\$25,900
Box Office Fee Income	\$57,516	\$69,163	\$31,419	\$89,026	\$69,300
Net Catering Income	\$28,664	\$30,311	\$31,958	\$32,947	\$32,900
Tenant Rentals	\$14,570	\$25,420	\$20,520	\$31,000	\$31,000
	\$0	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0	\$0
TOTAL INCOME	\$247,944	\$298,878	\$367,945	\$387,139	\$397,100
EXPENDITURE	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Staff					
Salaries	\$761,170	\$760,780	\$778,300	\$787,000	\$787,000
Oncosts	\$95,332	\$98,474	\$101,617	\$104,760	\$104,300
Other Staff Costs	\$34,128	\$26,734	\$27,587	\$28,440	\$28,400
Admin and Overheads					
Administrative Services	\$40,495	\$41,830	\$43,165	\$44,500	\$44,500
Marketing and Promotions	\$35,846	\$53,797	\$65,514	\$67,751	\$57,200
Travel and Accom	\$2,730	\$2,820	\$2,910	\$3,000	\$3,000
Buildings and Facilities	\$374,101	\$396,434	\$398,767	\$411,100	\$411,100
Charges Expenditure	\$15,416	\$17,803	\$21,006	\$23,504	\$23,300
Box Office Fee Expenditure	\$62,914	\$61,155	\$72,427	\$62,040	\$62,000
Programming	\$75,038	\$62,531	\$55,028	\$50,025	\$50,000
TOTAL EXPENDITURE	\$1,027,623	\$1,021,382	\$1,056,419	\$1,091,990	\$1,092,300
NET OPERATING RESULT BEFORE DEPRECIATION	\$140,321	\$197,496	\$261,526	\$275,149	\$284,800
DEPRECIATION - Supplies - (Debits)	(\$75,225)	(\$72,484)	(\$78,495)	(\$74,586)	(\$73,300)
Depreciation - Buildings	\$122,000	\$122,000	\$122,000	\$122,000	\$122,000
Depreciation - Furniture, Fixtures and Equipment	\$17,000	\$17,000	\$17,000	\$17,000	\$17,000
Travel Expense					
NET OPERATING RESULT INC. DEPRECIATION	\$65,096	\$125,012	\$183,031	\$200,563	\$211,500
DEPRECIATION - Supplies - (Credits)	(\$62,225)	(\$1,015,484)	(\$1,001,495)	(\$307,586)	(\$307,300)

Proposed Regional Network of Cultural Facilities

Based on Central Coast Regional Strategy 2006-31, NSW Government Department of Planning

Wyong Shire Council May 2010





	<p>CONTACT INFORMATION</p>		<p>FOREWORD</p>	
	<p>CONTACT INFORMATION</p>	<p>» Vivi Food Village, Canada Powerhouse Arts Centre.</p>		<p>» Foyer Gallery, Campbelltown Arts Centre, photo Tanner Architects.</p>

ADDRESS

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HOURS OF BUSINESS

9:00 a.m. to 5:00 p.m.
Monday to Friday

February 2006

FRONT COVER (LEFT TO RIGHT): Guga dance group from southern Sudan, African Festival of Cultures, organised by Bankstown Youth Development Service, photo Stuart Sloght; Hospital Beds by Susan Mine and Greg Stonehouse, Bankesbury Regional Gallery, photo Greg Stonehouse; Ping Theatre presented by Western Sydney Dance Action at Parramatta Riverside Theatres, photo Paul Hopper; india@tor.usydney, Urban Theatre Projects at Parramatta Riverside Theatres, photo Bradran Lohr.

BACK COVER (LEFT TO RIGHT): Campbelltown Arts Centre; Jenny Six Pham, Culture and Civilization: Backyards in Fairfield exhibition, Fairfield City Museum & Gallery, photo Danny Huyah; Making Sugar exhibitions, Parrish Regional Gallery @ The Lewers Request, photo Victoria Harbutt; MC Trey, Goggles, MC Kraz, MC Earthquake, MC Kanna, L. Brezza, Suburban Sista Sounds, Information @ Cultural Exchange (C3), photo H2.

In November 1999 the Ministry for the Arts launched its Strategy for the Arts in Western Sydney. This document summarises some key achievements of the strategy to date, reaffirms the Government's commitment to the original goals of the strategy, and signposts the way forward for the strategy's continuing implementation.

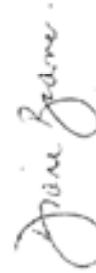
The Western Sydney Arts Strategy is part of a broader Government commitment to strategic initiatives for the region. These measures have contributed significantly to an increasing regional sense of place, identity and greater civic pride and participation, as well as providing pathways for employment within cultural industries. The Strategy for the Arts in Western Sydney is not concerned solely with arts development. It extends to broader capacities for local cultural development, infrastructure planning, community participation, integrated policy and planning, and partnerships for sustainable development.

The strategy has provided an effective framework for enhancing cooperation and developing a strong culture of collaboration within Western Sydney. The State Government's substantial investment in Western Sydney has contributed to redressing historical imbalances between the West and 'the rest' and has created a foundation for continued development.




We would like to thank local government across Western Sydney who have been major partners in the successful implementation of the strategy. We would like to gratefully acknowledge the work of Dr Elaine Lally who was commissioned by the NSW Ministry for the Arts to evaluate the first four years of the strategy. Her findings have provided a valuable estimation of the strategy and its impact. Most importantly we offer a round of applause to all the artists and artsworkers whose strong commitment to producing and presenting high quality work in partnership with communities has seen enthusiastic audiences embrace the arts in Western Sydney.



Bob Debus
Attorney General
Minister for the Environment
Minister for the Arts



Diane Beamer
Minister for Western Sydney
Minister for Fair Trading
Minister Assisting the Minister for Commerce

<h2 style="text-align: center;">OVERVIEW</h2>	<p><i>Fast Cars and Tractor Engines, a co-production between Urban Theatre Projects and Blacktown Youth Development Service, photo Amanda James Photographable Services.</i></p> 		<p><i>Time and Love: The Handcrafted Bedouin exhibition, Penrith Regional Gallery in The Lewers Request, photo Adam Hollingsworth.</i></p>	 <p><i>Joan Sutherland Performing Arts Centre, photo Tyrone Branigan.</i></p>
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Since the Government launched the Western Sydney Arts Strategy there has been a significantly and impressively greater commitment from local government in this region for arts funding. A joint investment in cultural infrastructure has fostered the growth of increasingly robust arts organisations of local, state and national confidence within the arts sector of the region, and increased regional co-operation. With the assistance of the strategy many of the arts activities in Western Sydney offer models and benefits for the whole state.

The 14 constituent local government areas are Auburn, Bankstown, Baulkham Hills, Blacktown, Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Holroyd, Liverpool, Parramatta, Penrith, and Wollondilly.

It is important to note the demographics of greater Western Sydney. These factors have provided a critical context for the formulation and implementation of this strategy.

- At the 2001 Census 1,673 million people lived in the Greater Western Sydney

region, representing 42% of the population of Sydney, and 27% of the population of the state.

- Western Sydney has the fastest growing population in the state, with the third largest economy in Australia.

- Western Sydney is home to the largest urban Aboriginal population in Australia and the cultural diversity of the region is well documented.

- Population projections anticipate that this high rate of growth will be sustained until at least 2019–20. An increase from the 2001 population of around 30% to 2.18 million – an additional half a million people – is expected over this timeframe¹.

A number of key organisations have developed in size, diversity of programming and audiences, and in the quality of their operations and outputs since the strategy commenced, including the Blacktown Arts Centre, Campbelltown Arts Centre, Cassala Powerhouse Arts Centre, Penrith Regional Gallery and The Lewers Request and the Parramatta Riverside Theatres.

All originally established by local government, the State Government's investment in project funding and capital infrastructure has enabled these organisations to grow beyond a local provider role.

All spheres of government must now work together to ensure the sustainability of these facilities.

Other organisations have also demonstrated significant development, most notably *Information and Cultural Exchange, Western Sydney Dance Action and Urban Theatre Projects*.

Some key indicators of significant progress in capacity building for cultural development include:

- Major development of cultural infrastructure;
- Growth of regional and sub-regional organisations supporting cultural development;

- Increased investment in arts and cultural activity by local government;

- Increasing success for the region's artists and organisations in attracting funding from the Ministry's other funding programs and other funding agencies;

- Establishment of a leadership role for the region in cultural planning;

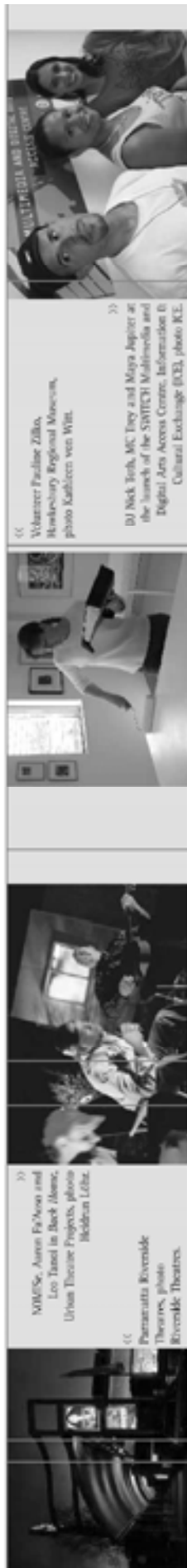
- An increasing level of arts activity, resulting in enhanced opportunities for artists and audiences;

- Increasing numbers of Western Sydney residents employed in cultural industries and participating as audiences;

- Increased recognition of the region and its unique cultural values and expression.

	<p><i>Penrith Regional Gallery in The Lewers Request, photo Ian Hobbs.</i></p>
	<p><i>Blacktown Arts Centre (entrance), photo Blacktown Arts Centre.</i></p>

¹ Gibson, B. Hollings, D. and Roodolph, B. Western Sydney Social Profile (Part A) November 2002, Urban Frontiers Program, University of Western Sydney, (WWSO), Blacktown) for the Greater Western Sydney Regional Planning and Management Framework. The authors source the statistical sources at ABS, CDA1001, CDA2100 and 2001 Census Index.



44 Volunteer Praline Zilho, Newcastle Regional Museum, photo Kathleen van Witt.
33 DJ Nick Toth, MC Troy and Moya Jasper at the launch of the SWITCH Multicultural and Digital Arts Access Centre, Information & Cultural Exchange (ICE), photo KE.

33 MACE, Aaron Fikson and Leo Tated in Back Home, Union Theatre Projects, photo Midean Loh.
44 Paramatta Riverside Theatres, photo Riverside Theatres.

Up to July 2005 the following funds have been disbursed under the Western Sydney Program:

- \$14.9m under the Major Capital Infrastructure Package announced by the NSW Government in February 2002 (matched by local government);
- 18 fellowships totalling \$384,613 under the Western Sydney Artists' Fellowships Program;
- \$2,090,111 under the Western Sydney Local Government Arts Incentive Fund;
- \$2,623,551 under the Western Sydney Strategic Initiatives Programs;
- \$1,081,245 under the Western Sydney Capital Infrastructure Program.

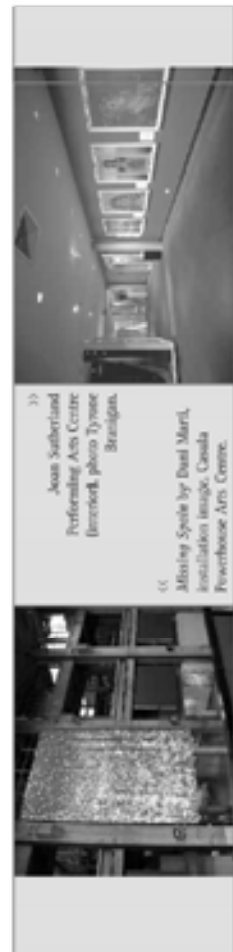
Over the last five years the impact of the strategy has been felt among the 14 local government areas through greater

co-operations, the development of partnerships, and the emergence of a strong regional identity.

Western Sydney has become an incubator for innovative strategies - not only in terms of policy initiatives that have piloted 'whole-of-government' and partnership strategies, but also in arts practice.

Carving edge, hybrid and innovative artistic and cultural practice has featured across a range of artforms, and 'community cultural development' has been reinvigorated in 21st century terms.

The Ministry's Cultural Planning Guidelines for local government authorities, released in July 2004, are part of a broader initiative to embed cultural development processes into the objectives and operations of Government agencies so that a whole-of-government approach to cultural development can be achieved. All Western



33 Joan Sutherland Performing Arts Centre, Berrimbong, photo Lynne Branigan.
44 Ministry Space by David Mann, installation inside, Canada Powerhouse Arts Centre.

Sydney Councils have, or are committed to developing local cultural plans.

The Western Sydney Arts Strategy has demonstrated the contribution the arts can make in traditionally non-arts related social policy areas through cross-agency projects and across the State. Major cultural projects have been delivered across the region in partnership with the health, education, environment and urban planning sectors.

In addition to continuing to implement the goals of the original strategy, the Ministry will continue to focus on building regional capacity by supporting:

- Regional infrastructure;
- Artist development;
- An indigenous arts development strategy;
- Industry development;
- The creation of arts development indicators;
- Cross-government and State/ Federal Government funding partnerships.

Cultural industry development for Western Sydney should not simply attempt to duplicate models from elsewhere, but should align with the region's distinctive

mix of cultural diversity, industrious energy and extraordinary growth.

Cultural industry development for Western Sydney needs its own unique character integrating the cultural economy of the region while also realising the strong export potential for distinctive cultural products and services nationally and internationally.

There is great potential for businesses and arts organisations in Western Sydney to work together to achieve mutual benefits, to build on a growing interest within business communities in creativity as a driver of innovation.

In the past there has been a tendency for the West to orient itself towards the CBD for its cultural consumption. Important shifts are now happening to change the 'centre-periphery' perception.

The recently opened M7 'Orbital' road has already begun to transform the travel topology of Western Sydney by linking Blacktown with Bankstown via Fairfield and Liverpool, providing a symbolically important north-south corridor.

Developing major centres of cultural activity in Western Sydney aligns with the Centres Policy framework of the Department of Infrastructure, Planning and Natural Resources' 2005 Metropolitan

 <p>© Cahoonista Story Performance Youth Theatre.</p>	 <p>© Fairfield School of Arts, photo Fairfield City Council.</p>	<h2>GOAL 1</h2> <p>To encourage arts and cultural activity that is locally determined and helps communities to grow</p>	 <p>© SWITCH Multimedia and Digital Arts Access Centre, Information @ Cultural Exchange (OCL) photo ICE.</p>
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Strategic. Recognised cultural precincts or 'hubs' can generate a critical mass of activity in one location, and attract audiences, visitors and workers to a variety of venues, cultural facilities and arts and creative industries incubator infrastructure.

The legacy of under-development and the rapidity of new urban development is being addressed through capacity building and investment in cultural infrastructure by the State Government.

The multi-disciplinary and place-based approach that the Western Sydney Arts Strategy has demonstrated, and that continues to underpin it, provides a valuable model for other regions with a need for integrated cultural development.

This approach allows for areas of need that fall between the existing programs to be identified, opportunities for cooperation and resource sharing to be explored, and strategic interventions to be made that contribute significantly to cultural development.

➤ **Achievements**

The Ministry for the Arts released Cultural Planning Guidelines in 2004. Western Sydney has been at the forefront of cultural planning within the State.

The Ministry for the Arts established a Western Sydney Local Government Arts Incentive Fund in 2001 to broaden partnerships with local Councils. Providing dollar-for-dollar matched funding (cash and in-kind), the Fund has encouraged local Councils to invest in the development and promotion of the arts in their areas. Up to July 2009, the Fund has disbursed a total of \$2,098,111 to local Councils in greater Western Sydney. The Western Sydney Local Government Arts Incentive Fund has also provided a strong impetus for cultural planning within the region.

NSW Heritage Office completed a survey of heritage in Western Sydney. The resulting report provided a valuable resource for the future management of Western Sydney's cultural heritage.

Engaging the corporate sector in broad cultural development, including support for the arts, is still a high priority for the region. Artswest is commencing work in this field, following funding for a position at the organisation.

➤ **The Future**

The Western Sydney Local Government Arts Incentive Fund will be continued, prioritising applications which address identified areas of ongoing need.

Opportunities will be provided for Councils with stable and well developed programs and facilities, to which they have made a significant and sustained financial commitment, to negotiate annual or triennial whole of Council funding agreements. To this end, as part of the Third Cultural Accord with Local Government, a pilot program offering one consolidated grant across all Ministry programs will be trialled with two Western Sydney Councils. In the future the option to negotiate Tripartite funding with the Federal Government for organisations already receiving significant Federal funding will be explored.

 <p>© First City and Teacher Enginer, a co-production between Urban Theatre Projects and Bankstown Youth Development Services, photo Amanda James Photographical Services.</p>	 <p>© Parramatta Riverside Theatres, photo Riverside Theatres.</p>
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	 <p>65 Mechanistic Urban Theatre Project, photo: Matthew Libke.</p>	 <p>33 Blacktown Arts Centre, photo: Blacktown Arts Centre.</p>	<p>GOAL 3 To increase participation in the arts by the people of Western Sydney</p>
	 <p>65 Mechanistic Urban Theatre Project, photo: Matthew Libke.</p>	 <p>33 Blacktown Arts Centre, photo: Blacktown Arts Centre.</p>	<p>GOAL 2 To assist artists in Western Sydney to achieve their full potential</p>

GOAL 2

To assist artists in Western Sydney to achieve their full potential

➤ Achievements

The Ministry for the Arts Western Sydney Artists' Fellowship was created to support the development of new work by Western Sydney artists. Grants of between \$5,000 and \$25,000 were offered under the program. Priority has been given to visionary or ambitious activities that have shown the potential to offer long-term cultural development in the region. Between 2001 and 2005 a total of \$104,613 has been disbursed through the Artists' Fellowship Program. In total 18 fellowships have been awarded at an average of \$21,000 each.

A number of flexible multi-purpose spaces across Western Sydney have been enhanced through the Government's 2002 Major Capital Infrastructure Package providing a range of improved facilities to support artists in the region. These include Joan Sutherland Performing Arts Centre in Penrith, Blacktown Arts Centre, Campbelltown Arts Centre and Fairfield School of Arts. Redevelopments in Bankstown, the Hawkesbury and Liverpool are in process, and the Penrith Regional Gallery and The Lewers Bequest is due for completion in June. An artist residency program will soon commence at Mangrove Farm near Penrith. Funding has been provided for two Indigenous contemporary art curators, one at Campbelltown Arts Centre and the other at Penrith Regional Gallery and The Lewers Bequest.

➤ The Future

The Ministry will formulate an Indigenous Arts Development Strategy for Western Sydney. It will incorporate an audit of Indigenous arts activity, existing and potential organisational capacity and resources, and provide detailed recommendations for action. The strategy will form a key part of the Ministry's overall strategy for Indigenous arts development across the State.

Support for venues to create opportunities for emerging and disadvantaged artists (including those with overseas professional careers but emergent in Australia) in the region will be given increased emphasis in the Ministry's funding and advisory programs.

The Ministry will encourage opportunities for the development of low cost accessible spaces for artists. At present the Ministry is working with Parramatta Council to source low cost studio spaces.

The Western Sydney Artists Fellowship will focus on particular artists from year to year, commencing with Literature and Music in 2007. The Ministry will investigate a means by which Western Sydney Artists Fellowship recipients can be promoted, and seek the views of all fellowship applicants on the ongoing needs of artists in the region.

GOAL 3

To increase participation in the arts by the people of Western Sydney

➤ Achievements

Through the Western Sydney Arts Strategy the landscape of the arts in Western Sydney has been reconfigured. The investment made by local Councils in cultural life has increased dramatically and has been a vital ingredient in the development of Western Sydney arts infrastructure. Organisations and individuals previously at a disadvantage securing funds have had access to support through the grants programs attached to the strategy.

Over the period of the implementation of the strategy the State cultural institutions and festivals have increasingly undertaken activities within the region, generally in collaboration with Western Sydney cultural facilities and organisations. Entrepreneurial Western Sydney organisations are developing partnerships with Sydney CBD based organisations, and some CBD organisations are developing strategies to extend their reach to Western Sydney.

The strategy has enabled key Western Sydney cultural organisations to develop both national and international partnerships to produce contemporary cultural projects that have resonance with their communities. These investments have increased access to high quality professional art activity for audiences in the region.

A Western Sydney Audience Development Strategy was commissioned by the Ministry for the Arts in partnership with the Australia Council for the Arts.

➤ The Future

The NSW Government has allocated \$1.9m for the period 2003 – 2007 to implement an arts in education strategy (Connected Arts) across the State. Specific Western Sydney initiatives will be developed as part of this program. Western Sydney schools in areas of high socio-economic disadvantage will be given priority as will the involvement of Western Sydney artists and arts organisations.

The Ministry will investigate the establishment of outreach positions or programs based in the major arts organisations (Casula Powerhouse Arts Centre, Campbelltown Arts Centre, Joan Sutherland Performing Arts Centre/Penrith Regional Gallery and The Lewers Bequest, Blacktown Arts Centre, Parramatta Riverside Theatres) to address the developmental needs of emerging and disadvantaged artists.

Options for implementing some of the recommendations in the Western Sydney Audience Development Strategy, involving other partners such as the Australia Council for the Arts, will be explored.

<p>GOAL 4 To support and nurture the arts industry in Western Sydney</p>	 <p>66 Performance Studio, Campbelltown Arts Centre, photo: Tanner Architects</p>	<p>39 PBlig Theatre presented by Western Sydney Dance Action at Parramatta Riverside Theatres, photo: Paul Hoppe.</p>
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➤ **Achievements**

A major capital infrastructure package of \$14.9 million was announced in 2002 enabling the most substantial advances in physical infrastructure for the arts in Western Sydney on record. This was accompanied by specific provisions for operational funding over three years for some facilities. Local government provided matching funding for the capital works.

The major capital infrastructure package has arguably represented the most important and strategic intervention by the State Government in Western Sydney. The following works have been completed or are in process:

- Campbelltown Arts Centre – opened in June 2005. The new \$10 million facility is a centrepiece for contemporary multidisciplinary arts in Sydney's South West. The NSW Government contributed \$3.32 million to the centre for a 180 seat performance studio, rehearsal and workshop spaces, café and gallery space.
- Joan Sutherland Performing Arts Centre – a \$6.4 million State Government (\$1.9 million Ministry for the Arts, \$4.5 million Department of Education) grant has doubled the size of this centre and provided a new home for the Railway Street Theatre Company. The extensions consist of a new 380 seat theatre (to be named the Q Theatre), 23 music studios (previously 9), two recital rooms and two orchestral rooms, box office,

administration area, foyers, restrooms and bar. The centre was opened in September 2005.

- Blacktown Arts Centre – the NSW Government contributed \$700,000 to convert a former Anglican church into an impressive contemporary multi-arts space. It has offered local and regional artists, including those from new migrant communities, the opportunity to promote and display their professional skills.
- Parramatta Riverside Theatres – the NSW Government provided \$1.8 million for an improved foyer, entrance and courtyard, new lighting and sound equipment. The works were completed in 2004 and the enhanced courtyard area has provided a new outdoor performance area. Riverside is now a regular part of the Sydney Festival program and has its own dynamic program.
- Penrith Regional Gallery and The Lewers Request – \$1.65 million grant for work to commence this year on a new gallery, café, research library and archive.
- Bankstown City Council – new accommodation is being provided for three arts organisations – the Bankstown Arts Hub; Urban Theatre Projects, Bankstown Youth Development Service and Citymoon Youth Theatre. The NSW Government is working with the Bankstown City Council to finalise the location for the new centre, being funded with a grant of \$1.5 million.

- Hawkesbury Regional Museum – the NSW Government has provided \$1.5 million for the construction and fit-out of a new regional museum at Windsor. The discovery of Aboriginal artifacts on the proposed Baker Street site has delayed construction of the new museum which will join the original museum via a landscaped courtyard.

- Liverpool PCYC – funds have been provided for a band room, DJ booth and a music recording studio to provide young people of the region with a professional recording centre. This will help develop employment skills, with training programs to teach young people about producing and recording music.

- Fairfield School of Arts – \$60,000 was granted to Fairfield City Council towards building improvements enabling the relocation of the Powerhouse Youth Theatre to the space.

- Casula Powerhouse Arts Centre – a joint initiative with the Liverpool City Council, the NSW Government is investing \$7.2 million towards a major refurbishment of the centre. Work due for completion in 2007.

Up to July 2005 the Western Sydney Capital Infrastructure Program, a separate ongoing annual program, has disbursed more than \$1 million to local government and non-government organisations (NGOs). A key outcome under this program is establishment of the SWITCH Multimedia and Digital Arts

Access Centre at Information and Cultural Exchange (ICE) which opened in February 2005. SWITCH offers a space where communities and artists can make digital sound and music, web and graphic design and screen-based arts.

➤ **The Future**

The Ministry for the Arts will examine issues affecting creative industry development in Western Sydney and options for broader based financial support for creative initiatives.

The Ministry for the Arts will work with Arswod and the Australian Business Arts Foundation to actively support activities within the region to encourage engagement between the arts and commercial sectors.

The Ministry for the Arts will encourage regional uniform development strategies in literature, public art and music.

The Ministry will maintain its close relationship to Western Sydney Regional Organisation of Councils (WSROC), with a future focus on implementing the arts components of WSROC's Regional Cultural Strategy.

The Ministry will give priority to Western Sydney NGOs which demonstrate outstanding leadership in arts development for the region and the State.

The Ministry for the Arts will commission the formulation of arts development indicators through a pilot program involving key Western Sydney organisations.

GOAL 5

To encourage regional cultural development

➤ **Achievements**

The Ministry for the Arts' Program Manager for Western Sydney liaised extensively with a broad range of agencies and clients in Western Sydney throughout the implementation of the strategy. The role entailed acting as a broker to facilitate development of projects; participating in a number of arts advisory committees in Western Sydney; assisting with recruitment of positions; implementing strategic initiatives; and encouraging regional and sub-regional cooperation.

The Ministry funded WSRROC for the management and implementation of its Regional Cultural Strategy released in March 2005. Regular meetings of local government, cultural planners have occurred through WSRROC's Regional Cultural Planning Coordination Project and the Local Government Association and Shires Association. The Ministry is represented on the steering committee for the WSRROC project, and attends meetings convened by the Associations.

The Second Cultural Accord between the Ministry for the Arts and the Local Government Association and Shires Association of NSW was signed by the then Premier and Minister for the Arts and the Presidents of the Local Government Association of NSW and of the Shires Association of NSW in 2002, to 2005. The second Accord gave particular priority to Western Sydney.

The Western Sydney Arts Strategy

recommended that Ministry for the Arts include more people from Western Sydney on its policy and funding advisory committees and on the boards and trusts of the arts portfolio. The appointment of Western Sydney representatives on artform committees has proved successful to date. Western Sydney representatives will continue to be appointed to artform committees.

➤ **The Future**

The Third Cultural Accord covers the 2006-2008 triennium and will maintain and further develop the working partnership between State and Local Government. It aligns with both the Ministry and the Associations' strategic plans. This will enable both organisations to achieve their objectives in partnership. The Third Cultural Accord recognises the significant commitment both Local and State Government has towards cultural development. The following principles underpin this commitment:

- Local and State Government are complementary partners in the development of arts and culture at a local level and that Local Government has primary responsibility for the planning, development and operation of cultural facilities at the local level.

■ **Local and regional cultural planning is integral to the establishment of shared priorities for governments and communities, and for the effective integration of State Government support for cultural activity at the community level.**

Local and State Governments continue their commitment to the development of contemporary Indigenous culture.

Local and State Government will advocate for all spheres of government to work together to develop and provide up-to-date, easy to use and accessible public library and information services for their communities.

The Ministry and the Associations will work together on a number of initiatives designed to further these principles.

A Cultural Development Standing Committee with representatives from both the Associations and the NSW Ministry for the Arts will oversee the implementation of the Third Accord.

The Ministry for the Arts will support

Community Cultural Development NSW (CCDNWSW) and WSRROC to discuss with representatives from local government, cultural institutions and arts officers, areas of ongoing need in relation to cultural development and to identify potential strategies to address these issues.

The Ministry will work with key organisations in Western Sydney to investigate more effective ways to offer support to culturally and linguistically diverse artists.

66
 Moved by James Angus, 2000, leather, located in the Gallery, Sydney.
 Children's Cultural group, African Festival of Cultures, organised by Bankstown Youth Development Service, photo Stuart Stegsh.

67
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73
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www.arts.nsw.gov.au

6.1 Information Reports

TRIM REFERENCE: F2010/00009 - D02274681

AUTHOR: ED

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

6.2 Disclosure of Interest Returns - 1 April to 30 June 2010

TRIM REFERENCE: F2009/01526 - D02129706

AUTHOR: SW

SUMMARY

The Local Government Act, 1993 requires Disclosure of Interest (DOI) Returns for Councillors and Designated Persons to be lodged with the General Manager who, in turn is required to keep a register of the Disclosure of Interest Returns.

The Act further requires the DOI Returns lodged with the General Manager to be tabled at a meeting of Council.

RECOMMENDATION

That Council receive the report on Disclosure of Interest Returns - 1 April to 30 June 2010.

In accordance with the Local Government Act 1993, staff are required to lodge a Return within three months of being appointed to a designated position. Councillors and staff are also encouraged to lodge an amended return if circumstances change during the year.

Section 450A(2)(a) also specifies that the General Manager must table the returns lodged under Section 449(1). The returns for the period 1 April to 30 June 2010 are now tabled.

NB

Sections 449(1) and (5) of the Local Government Act, 1993 - Disclosure of Interest Returns for Councillors and Designated Persons to be lodged with GM

Section 450A(1) – register required of the Disclosure of Interest Returns lodged.

Section 450A(2) - Returns lodged with the General Manager under section 449(1) to be tabled at a meeting of Council.

ATTACHMENTS

- 1 List of Disclosures of Interest 1 April to 30 June 2010 D02245668

**Disclosures of Interest
1 April to 30 June 2010**

Councillors

-

Staff

Bruce K
Casement G (amended)
Charlton B
Conroy M
Dicks A (amended)
Dignam S
Fawcett S
Ferry C
Fulcher R (amended)
Fryar P
Gale S
Halbert T (amended)
Helies R
McMillan B (amended)
Meloy P (amended)
Mewing J (amended)
Rigby S
Ryan D
Wheeler L (resignation)
White P (resignation)
Whittaker M
Yates K (resignation)

6.3 Traffic Gridlock San Remo

TRIM REFERENCE: F2010/01178 - D02269707

AUTHOR: RB

SUMMARY

Following Council's resolution of 10 March 2010, written representations were made to the RTA together with a follow up email regarding congestion on the Pacific Highway in the vicinity of the Northlakes Shopping Centre at San Remo. The RTA has now advised that funding of \$4 million has been allocated in the 2010-11 financial year to carry out remedial works.

RECOMMENDATION

That Council receive the report on Traffic Gridlock San Remo.

At the Ordinary Meeting held on 10 March 2010 Council resolved as follows:

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

- 1 That Council draw the attention of the Roads and Traffic Authority to the congestion currently being experienced in the vicinity of the new Northlakes Shopping Centre and request that they urgently undertake remedial work.*
- 2 That staff report on actions taken by the Roads and Traffic Authority and the success or otherwise of these initiatives.*

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

AGAINST: COUNCILLORS BEST, EATON AND MCNAMARA

On 18 March 2010, written representations were made requesting the RTA to urgently resolve traffic congestion on the Pacific Highway at San Remo in the vicinity of the new Northlakes Shopping Centre.

A follow up email was sent to the RTA Central Coast Manager on 22 April 2010.

A meeting between RTA, Coles (Northlakes Shopping Centre) and Council was held on 14 May 2010 to discuss the traffic issues. The RTA's Acting Network Manager (Craig Leckie) advised at the meeting that the current congestion around the Northlakes Shopping Centre is due to the new signalised intersection.

6.3 Traffic Gridlock San Remo (contd)

The RTA advised that the traffic analysis included with the shopping centre's development application appeared sound, however, certain assumptions were made regarding background traffic and the effect the signals would have on Pacific Highway traffic. These have proven to be inaccurate. It should be noted that the development application required the concurrence of the RTA and thus the applicant's traffic analysis was reviewed and endorsed by the RTA (rather than Council).

The RTA has received numerous letters from drivers who currently experience significant delays on this section of the highway. A representative from Coles advised that they also have received complaints relating to delays when exiting the development, particular when turning right onto the Pacific Highway. Coles requested additional green time to be allocated to this traffic movement, however, the RTA indicated that this would result in further congestion on the Highway and could not be considered.

The RTA advised at the meeting that no funds were currently available for upgrading this section of the Highway, but that a funding submission had been made.

The RTA has now confirmed that \$4 million has been allocated in the State Government 2010-11 Budget for construction of additional lanes on the Pacific Highway at San Remo.

These works are to provide two through travelling lanes in each direction between Goorama Avenue and Costa Avenue. This will also address the issue of internal congestion within the Coles development by permitting dual right turn lanes exiting the site.

The RTA is currently preparing concept designs and anticipates commencing construction in early 2011 with the works being completed by June 2011.

ATTACHMENTS

Nil.

6.4 F3 Freeway Traffic Management

TRIM REFERENCE: F2004/06677 - D02270006

AUTHOR: RB

SUMMARY

This report provides responses to Council's resolution of 14 April 2010 which related to the incident that occurred on the F3 Freeway on 12 April 2010 where traffic was significantly delayed.

A copy of the 33 recommendations from a report by Former NSW Police Commissioner Ken Moroney, which was released on 26 June 2010, is also attached.

RECOMMENDATION

That Council receive the report on F3 Freeway Traffic Management.

At the Ordinary Meeting held on 14 April 2010 Council resolved as follows:

"RESOLVED unanimously on the motion of Councillor GRAHAM:

- 1 That Council express its dismay at the poor management by the NSW State Government of the recent accident.*
- 2 That Council make urgent representation in the strongest possible terms to local State Members of Parliament and the Minister for the Central Coast for them to ensure that this poor management does not occur again."*

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

AGAINST: NIL

Written representations were made to the local State Members of Parliament and the Minister for the Central Coast on 23 April 2010. Copies of the correspondence received are attached.

No replies were received from the previous Minister for the Central Coast Hon Ian Macdonald or Robert Coombs MP (Member for Swansea).

Robert Coombs verbally advised that he met with the Minister for Roads, who said that measures were being put in place to expedite contra flow arrangements in the future.

The Department of Premier & Cabinet requested former NSW Police Commissioner Ken Moroney AO, APM to undertake an inquiry into the incident. The main aim of the inquiry was to report on the actions and decision making process of agencies during and after the traffic incident. The report was released by the Premier on 26 June 2010 and includes 33 recommendations. A copy of those recommendations is attached. The Premier has advised that the NSW Government will accept in principle all 33 recommendations and implement the necessary changes to ensure a similar incident does not happen again.

ATTACHMENTS

1	Response from Marie Andrews MP (Dated 14 May 2010) - Member for Gosford	D02243766
2	Response from Grant McBride MP (Dated 11 May 2010) - Member for The Entrance	D02237197
3	Response from David Harris MP (Dated 30 April 2010) - Member for Wyong	D02231708
4	Response from Marie Andrews MP (Dated 30 April 2010) - Member for Gosford	D02230396
5	F3 Freeway- K.E.Moroney Report Recommendations on 14 April 2010 Incident	D02280317



REF: 240/10/na

14 May 2010

Ms Gina Vereker
Director Shire Planning
Wyong Shire Council
P O Box 20
WYONG NSW 2259

Dear Ms Vereker,

Re: F3 Traffic Management

Reference is made to my representations on your behalf concerning the traffic problems on the F3 after the crash on 12 April 2010.

Minister Campbell sought an urgent report from the Roads and Traffic Authority but was not satisfied with the response he received. Consequently Minister Campbell asked the Department of Premier and Cabinet to carry out an independent inquiry to establish what went wrong.

As you would be aware, the inquiry will be carried out by former NSW Police Commissioner, Ken Moroney. Minister Campbell is expecting Mr Moroney to be thorough and to give clear insight into changes that need to occur when responding to future incidents.

Minister Campbell has assured me that once the investigation is complete he will be reporting to the community on the outcome. I trust this information is of assistance to you and will keep you informed of any further developments.

Yours sincerely,

Marie Andrews

MARIE ANDREWS, MP
MEMBER FOR GOSFORD

attach:

Electorate Office: PO Box 223, Woy Woy 2256
Phone: 4342 4122 • Fax: 4341 2368 • Email: goford@parliament.nsw.gov.au



14 MAY 2010



David Campbell
Minister for Transport and Roads

M10/3663

13 MAY 2010

Ms Marie Andrews MP
PO Box 223
WOY WOY NSW 2256

Dear Ms Andrews

Thank you for your letter on behalf of Wyong Shire Council, concerning the traffic delays on the F3 following a crash on 12 April 2010. I have taken careful note of your comments.

The delays followed a crash near Mount White involving a loaded B-Double fuel tanker hit from behind by another truck. The crash, rescue and clearing operations blocked the north bound lanes of the freeway causing lengthy traffic delays.

I share the frustration of motorists who were on the F3 following the crash. I extend my apologies for the inconvenience caused to all those impacted by the delay.

As Minister, I sought an urgent report from the Roads and Traffic Authority (RTA) to explain their role in dealing with the crash. I found the report did not clarify the reasons for the lengthy traffic delays, or the time taken to implement the contra flow traffic arrangements. Consequently, I have asked the Department of Premier and Cabinet to carry out an independent inquiry to establish what went wrong and why.

The inquiry will be carried out by former NSW Police Commissioner Ken Moroney, and Terms of Reference have already been established. I expect Mr Moroney will be thorough and will give clear insight into changes that need to occur when responding to future incidents.

Again, thank you for taking the time to write to me with Wyong Shire Council's views. Once the investigation is complete, I will be reporting to the community on the outcome. In the meantime, if you have any further questions, please do not hesitate to contact my Policy Advisor, Mr George Houssos, on (02) 9228 3777.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Campbell'.

David Campbell MP
Minister for Transport and Roads

All Correspondence to:
GPO Box 5341
Sydney NSW 2001
david@campbell.minister.nsw.gov.au

Level 35, Governor Macquarie Tower
Farrer Place, Sydney NSW 2000
Ph: +61 2 9228 3777
Fx: +61 2 9228 3722



Tuesday, May 11, 2010

Ms Gina Vereker
Director Shire Planning
Wyong Shire Council
PO Box 20
WYONG NSW 2259

VerekerG-10a100511-1113.Doc

Dear Ms Vereker

Thank you for your letter of 23 April 2010 concerning F3 Freeway Traffic Management and the accident on Monday 12 April that caused extensive delays for motorists using the freeway that day.

The Premier and the Minister for Transport and Roads are very aware of the great distress and inconvenience this had on the lives of the motorists and their families, caught up in the delays.

The Premier has appointed former Police Commissioner, Ken Moroney to conduct an independent inquiry into the incident following an inadequate report tabled by the Roads and Traffic Authority.

I look forward to reading his conclusions and hope his recommendations will ensure that the contra flow system is utilized at an appropriate time to alleviate delays of this magnitude in the future.

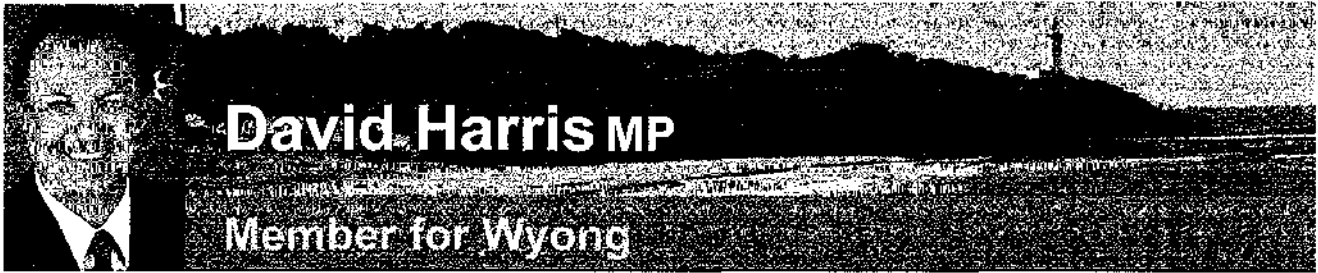
Yours sincerely

Handwritten signature of Grant McBride

Grant McBride MP
Member for The Entrance

Office: 24 The Entrance Road, The Entrance • Mail to: PO Box 401 The Entrance 2261
Phone: 4334 1012 • Fax: 4334 3840 • Email: theentrance@parliament.nsw.gov.au





Ref:verekerwsc100430.let

Ms Gina Vereker
Director, Shire Planning
Wyong Shire Council
PO Box 20
WYONG NSW 2259

30 April 2010

Dear Ms Vereker

Thank you for your letter and your views concerning the unfortunate accident on the F3 on Monday 12 April 2010, I have noted your concerns.

I wish to advise that I have had several meetings regarding this matter with both the Premier the Hon Kristina Keneally and the Hon David Campbell MP, Minister for Roads in respect of this matter.

Yours sincerely

DAVID HARRIS MP
Member for Wyong
Parliamentary Secretary for the Central Coast

Electorate office: 243 Main Road, Toukley • Mail: PO Box 31, Toukley NSW 2263
Phone: 4397 1000 • Fax: 4397 1012 • Email: wyong@parliament.nsw.gov.au





REF:240/10/Im

30 April 2010

Ms Gina Vereker
Director Shire Planning
Wyong Shire Council
PO Box 20
WYONG NSW 2259

Dear Ms Vereker,

RE: F3 Traffic Management

Thank you for your recent correspondence regarding traffic management on the F3.

Representations have now been made to the Hon. David Campbell, MP, Minister for Transport and Roads regarding this issue.

When the outcome of my representations is known, I will again be in contact with you.

Yours sincerely,

Marie Andrews

MARIE ANDREWS, MP
MEMBER FOR GOSFORD

Electorate Office: PO Box 223, Woy Woy 2256
Phone: 4342 4122 • Fax: 4341 2368 • Email: gosford@parliament.nsw.gov.au



3. RECOMMENDATIONS.

RECOMMENDATION 1 –

That all outstanding action items identified in the "Rapid Response for New F3 Emergency Plan (2008)" be finalised as a matter of priority, and that a report be provided to the Director General, Transport NSW by the Chief Executive, RTA no later than 31 August 2010 as to the status of completion of all outstanding matters.

RECOMMENDATION 2 –

That the Director General, Transport NSW, Commissioners of the NSW Police Force, NSW Fire Brigades, NSW Rural Fire Service, NSW State Emergency Services, and the Chief Executives of the Ambulance Service of NSW and RTA enter into a joint Memorandum of Understanding (MOU) which articulates the roles, functions and responsibilities of each of those agencies in responding to high profile road and traffic management issues.

RECOMMENDATION 3 –

That any proposed joint MOU articulate the co-ordination and collaborative arrangements required across each of the agencies so as to provide a timely response to road management issues.

RECOMMENDATION 4 -

That due to its role in regulating the transportation of hazardous goods on the road network consideration is given to having the Department of Environment, Climate Change and Water as a signatory to the proposed joint MOU.

RECOMMENDATION 5 –

That the NSW Police Force will assume and lead the command, control and coordination arrangements of major motor vehicle

incidents until overall resolution and hand-back to appropriate authorities.

RECOMMENDATION 6 -

That the Joint Traffic Management Protocols for Priority Roads, May 2010, be amended to further articulate the NSW Police Force command and control arrangements for the resolution of significant motor vehicle crash incidents requiring a joint agency response.

RECOMMENDATION 7 --

That consideration is given to reviewing the F3: Sydney-Newcastle Freeway Traffic Management Plan (2005), to ensure that it reflects contemporary best practice, policy decisions and operational priorities for the effective and timely management of road crash and related incidents.

RECOMMENDATION 8 --

That the NSW Police Force consider commending the actions of Mr Corey Norris to the Royal Humane Society NSW, or St John Ambulance Australia (NSW Division) in recognition of his public spiritedness in rendering first aid to a driver injured in the motor vehicle crash on the F3 Freeway, near Jolls Bridge on 12 April 2010.

RECOMMENDATION 9 --

That further consideration be given to providing for significant motor vehicles crashes to be included within the definition of 'emergency' under the State Emergency and Rescue Management Act.

RECOMMENDATION 10 --

That the Commissioner of Police give further consideration to the ongoing provision of Emergency Management and Incident Command and Control Courses, including renewed training programs, for all Local Area Commanders / LEOCONs and Duty Officers as a matter of priority.

RECOMMENDATION 11 -

That the Commissioner of Police give ongoing consideration to the provision of Incident Command and Control Courses for all Mobile Supervisors (irrespective of their class of duties) and Incident Site Controllers through the Education Services Command and the District Emergency Management Officer (DEMO) network.

RECOMMENDATION 12 -

That the Commissioners of the NSW Police, Fire Brigades, Rural Fire Service, State Emergency Services, the Director General Transport NSW, and the Chief Executives of the Ambulance Service of NSW and RTA, give consideration to the development of an integrated Emergency Management and Incident Command and Control Course, incorporating the use of Hydra and Minerva facilities.

RECOMMENDATION 13 -

That any programs developed and delivered by or on behalf of the NSW Police Force, either for internal delivery or across multiple agencies, be done so utilising (amongst others) the District Emergency Management Officer network.

RECOMMENDATION 14 -

That all agencies impacted by the Inquiry and that have a range of core functional responsibilities within the emergency management and incident command and control framework, minimally undertake one joint table-top and one joint operational exercise per year. Such exercises should be independently assessed and adjudicated.

RECOMMENDATION 15 -

That the State Emergency Management Committee give consideration to the oversight of development, delivery and implementation of Emergency Management and Incident Command and Control awareness training, across the key combat agencies and including the Transport NSW portfolio.

RECOMMENDATION 16 -

That the NSW Police Force, NSW Fire Brigades and Transport NSW (in consultation with the Ambulance Service of NSW) undertake a thorough review of the policy, technical capability and operational effectiveness of the Inter-Cad Electronic Messaging System (ICEMS) to ensure that all inter-agency messages are the subject of review, analysis and timely dissemination to and within relevant emergency response agencies.

RECOMMENDATION 17 -

That any such review takes account of the operational needs of the NSW State Emergency Services and the Rural Fire Service of NSW.

RECOMMENDATION 18 -

That assessable training in ICEMS be regularly conducted across agencies to ensure contemporary knowledge of its application and use in day-to-day operations, and, importantly, emergency service response requirements.

RECOMMENDATION 19 -

That the Director General, Transport NSW, chair an inter-agency Working Party to examine the registration, licensing and safety requirements of all vehicles engaged in the transportation and movement of dangerous goods (including fuels, chemicals and gases) on NSW roads.

RECOMMENDATION 20 -

That the inter-agency Working Party convened by the Director General, Transport NSW, examine the requirement for a legislative framework and appropriate guidelines for the decanting of fuel from vehicles involved in motor vehicle crashes (or similar circumstances), and that such guidelines determine issues of standard operating procedures, appropriate clothing, equipment and training for personnel involved in such activity.

RECOMMENDATION 21 -

That the Director General, Transport NSW consider inviting WorkCover NSW to join the Working Party.

RECOMMENDATION 22 -

That Transport NSW enter into a formal Service Level Agreement with St John Ambulance Australia (NSW), NSW State Emergency Services, and other private sector or charitable organisations such as the Salvation Army, to provide welfare support services (including the distribution of water and light sustenance) to stranded motorists at times of inordinate and lengthy delays on the F3 Freeway.

RECOMMENDATION 23 -

That the Director General, Transport NSW expedite discussions with the NSW Fire Brigades, Ambulance Service of NSW, NSW State Emergency Service and Rural Fire Service of NSW regarding the appointment of a senior, qualified Liaison Officer TMC, Redfern for each of these services.

RECOMMENDATION 24 -

That the Chief Executive, RTA report minimally at 3 monthly intervals (or such timeframes as are agreed) to the Director General, Transport NSW, on the finalisation of all outstanding and approved recommendations identified in the 'F3 Incident Management Improvement Program (May 2010)' and the 'RTA Report: F3 Incident 12 April 2010'.

RECOMMENDATION 25 -

That the Transport Management Centre be removed from the organisational and functional control of the RTA.

RECOMMENDATION 26 -

That the Transport Management Centre and the Transport Co-ordination Group be incorporated into a new entity entitled the 'Transport Information and Co-ordination Centre (TICC)'.

RECOMMENDATION 27 –

That the functional responsibilities of the Transport Management Centre and the Transport Co-ordination Group be integrated to provide a seamless set of transport management arrangements across the whole of the transport network.

RECOMMENDATION 28 –

That the operational management of the proposed Transport Information and Co-ordination Centre (TICC) be under the direction of one General Manager.

RECOMMENDATION 29 -

That all existing personnel attached to both the TMC and the TCG be transferred to the new entity, the Transport Information and Co-Ordination Centre (TICC).

RECOMMENDATION 30 –

That the General Manager, Transport Information and Co-Ordination Centre (TICC) report directly to the Director General, Transport NSW and be held accountable for the effective operations, management and administration of the Centre.

RECOMMENDATION 31 –

That subject to the establishment of the Transport Information and Co-ordination Centre (TICC), the issues identified in the Director General, Transport NSW submission of 29 April 2010 to this Inquiry be the subject of development and adoption by Transport NSW.

RECOMMENDATION 32 --

That within 12 months of the adoption of these recommendations, the Director General, Transport NSW, report to the Government on the effective management and operations of the Transport Information and Co-ordination Centre (TICC).

RECOMMENDATION 33 --

That the Director General, Transport NSW, be admitted to full membership of the State Emergency Management Committee (SEMC).

6.5 Mardi to Mangrove Link Project Status

TRIM REFERENCE: F2010/00500 - D02270498

AUTHOR: CC

SUMMARY

Report on status of Mardi to Mangrove Link Project.

RECOMMENDATION

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

PROJECT SCOPE

- Wyong River off-take structure and pumping station
- Wyong River to Mardi-Dam 2.1 kilometre pipeline
- Mardi-Mangrove transfer pumping station
- Mardi Dam to Mangrove Creek Dam 19 kilometre pipeline
- Lower Wyong River Weir, Fishway and Gauging

CURRENT STATUS

Expenditure to date \$43.7m

Project Estimate \$120.6m

Construction Status

	Scheduled Start	Scheduled Completion	% Work Complete
Milestone 1:		17 January 2011	
Pre-construction – Management Plans & Approvals	4 January 2010		100%
Work Package 1 – Wyong River Off-take	7 April 2010		13%
Work Package 2 – Wyong River Pump Station	19 February 2010		12%
Work Package 3 – Wyong Mardi Rising Main 3	16 February 2010		5%
Work Package 4 – Wyong Mardi Inlet	6 May 2010		15%
Work Package 7 – Mardi Mangrove Transfer Main	1 March 2010		10%
Work Package 18 – Wyong Weir, Fishway & Gauging	5 August 2010		
Milestone 2:		31 January 2011	
Work Package 6 – Mardi Mangrove Transfer Pump Station	21 June 2010		2%
Milestone 3:		25 April 2011	
Commissioning	1 February 2011		

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	17 January 2011		<input type="checkbox"/>
Transfer Pump Station Construction	31 January 2011		<input type="checkbox"/>
Commissioning	25 April 2011		<input type="checkbox"/>
Project Completion	June 2011		<input type="checkbox"/>

Land Matters

- Individual Property Management Plans (PMP) have been prepared for each property and include all items agreed between each landowner and Council. Fifty (50) out of fifty five (55) PMPs have been finalised and agreed with property owners.
- All four (4) landowners whose easements were compulsory acquired have accepted their compensation offers (as determined by the Valuer General). This means these acquisitions will be shortly finalised without any appeals.

Stakeholder Liaison**Community**

- Traffic message boards have been put in place to alert locals and visitors to road works on Yarramalong Road. The boards will be moved and updated while this section of work continues.
- Traffic updates are provided to local emergency services, schools and bus companies every week. The updates are also uploaded to the Mardi-Mangrove Link (MML) Project pages of the GWCWA website and issued to the media.
- Traffic information and project updates are regularly provided in Councils' ShireWide News column every fortnight. General project information is also running in the Gosford Council news column approximately once per month.
- Project information displays have been updated at three major local shopping centres – Erina Fair, Westfield Tuggerah and Lake Haven.
- A story highlighting recent progress was provided to the Village Grapevine publication

6.5 Mardi to Mangrove Link Project Status (contd)

including updated photographs of recent work.

Landholder

- Traffic updates were issued to landholders each week who have signed up to receive regular traffic updates. Other landholders have been invited to join this email list.
- Direct landholder liaison is continuing as required.

Government

- A project overview and progress update report were prepared for the new Minister for the Central Coast, The Hon. John Robertson. Mr Robertson was also offered a briefing on the project.

Incidents

- There were three OH&S incidents on 16 June 2010 that resulted in shut-down of pipe laying construction activities for two days during which Comcare and WorkCover investigations were undertaken. John Holland and their pipe laying contractor, Eyre, have reviewed their work practices in detail.
- There have been no environmental incidents during the last reporting period.

Major Achievements / Issues

- Approximately 750m of pipe for Work Package 7, Mardi Mangrove Transfer Main, has been laid as of 5 July. Three pipe laying crews are currently working with a fourth crew expected to be established shortly.
- Work is continuing on the new Mardi Dam inlet structure located at the saddle dam (northern end of the Mardi Dam facility). The inlet pipework has commenced, and pouring has now started for the break tank.
- Initial sheet piling for the Wyong River off-take structure is complete. Progress on sheet piling for remaining off-take works has been delayed due to submerged logs. The concrete ring beam at the new Wyong River pump station has been poured.

ATTACHMENTS

Nil.

6.6 Australian Local Government Association Conference 2010

TRIM REFERENCE: f2004/06517 - D02286009

AUTHOR: MW

SUMMARY

Reporting on the Australian Local Government Association Conference 2010.

RECOMMENDATION

That Council receive and note the report.

The Mayor, Councillor Bob Graham and the General Manager, Michael Whittaker attended the 2010 Australian Local Government Association Conference, held in Canberra from 15 – 17 June. Delegates from most of the 565 Local Governments in Australia were in attendance. Councillor Doug Eaton also attended on behalf of the Central Coast Group Training on Tuesday 15 June.

The conference theme was Population Participation and Productivity and it began with a welcome by Federal Minister, the Honourable Anthony Albanese MP. Kerry O'Brien from ABC's 7.30 Report followed and then a panel of journalists spoke on their perspective of national issues and the Federal election.

Professor Peter McDonald whose specialty is Australian Population Demographics spoke on how they were changing and what is driving the changes. The main concern is the increasing proportion of the population over 65 and the falling number of working aged Australians.

The conference dinner was held that night at Parliament House, Great Hall.

Wednesday began with an update on the campaign to recognise Local Government in the Australian Constitution, followed by a presentation on Women in politics. Australian Greens Leader Bob Brown spoke before lunch and in the afternoon was a presentation on climate change and seminars on "Not in my Backyard", and "Fit for the Future".

The Conference then moved to "Productivity and Participation" with presentations by National Leader Warren Truss MP and Liberal Andrew Robb AO MP, standing in for Tony Abbott MHR.

At the conference the enclosed motions were debated and decided upon as detailed.

The Mayor also attended a conference of the Australian Council of Local Government on the 18 June, organised by the Federal Government for all Mayors and Shire Presidents. This began with a dinner in the Great Hall by former Prime Minister Kevin Rudd and almost all Federal Ministers, and Members of Parliament, who were allocated tables. The next morning former Prime Minister Kevin Rudd, Minister Anthony Albanese MP and Ministers took questions from Mayors and Presidents followed by break out sessions with two Ministers each, and then lunch.

During this conference the Federal Government announced a further \$100 million for Local Government, of which Wyong Shire is expected to be \$659,000.

The Mayor Councillor Bob Graham, Councillor Doug Eaton, the General Manager Michael Whittaker together with Surf Life Saving Central Coast President Stuart Harvey and Chief Executive Officer Chad Griffith met with former Prime Minister Kevin Rudd and Federal Member for Dobell Craig Thomson to take receipt of a cheque for \$5 million to assist in the redevelopment of Surf Life Saving Clubs.

ATTACHMENTS

- 1 Local Government Association Conference 2010 Resolutions Enclosure D02286039

6.7 Outstanding Questions Without Notice and Notices of Motion

TRIM REFERENCE: F2009/00008 - D02271218

AUTHOR: ED

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

RECOMMENDATION

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

Question Asked / Councillor	Department	Meeting Asked	Status
Q87/10 Fees payable by Central Coast Triathlon and Multi Sports Club for use of Council facilities	Shire Services	23 June 2010	A response will be submitted to Council's meeting of 11 August 2010.

Notice of Motion	Department	Meeting Resolved	Status
326 - National Natural Disaster Funding	Shire Planning	8 August 2007 Cr Eaton / Cr Best	Letter sent to Local Government Association (LGA) applying for funding. Reply received advising Council was unsuccessful. Letter sent to the LGA requesting coastal erosion and risk management issues to be included in future funding. No response received. A report will be submitted to Council once the project plan for the Coastline Management Plan has been finalised.
298 - The Long Jetty Commercial Options Initiative	Shire Planning	25 June 2008 Cr Best / Cr Eaton	Currently preparing the project Management documentation to initiate the commencement of the project for masterplanning the Long Jetty Village Centre. This project will consider the matters raised in Council's resolution. The Masterplan project is expected to commence in 2011/2012.

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

Notice of Motion	Department	Meeting Resolved	Status
9.2 – Notice of Motion – Community Gardens	Shire Planning	22 July 2009 Cr Wynn / Cr Graham	<p>A report will be prepared for Council's consideration once community consultation has been completed.</p> <p>The draft Policy has been incorporated within the Legal and Policy Unit Work Program to be developed in the third quarter of 2009-10.</p>
8.1 - Notice of Motion – Energy Reduction Targets	Shire Planning	9 September 2009 Cr Wynn / Cr Best	<p>This report has not been finalised due to other earlier priorities such as Climate Change requiring an additional resource. A secondment from Shire Services has now commenced.</p> <p>A draft report has been prepared, however taking into account the broad range of issues that effect energy usage and energy reduction, the report is being rewritten to canvass a broader range of options than requested in Council's resolution. The report will be finalised in July.</p>
8.4 - Notice of Motion – Proposed Additional Development Policy	Shire Planning	11 November 2009 Cr Best / Cr Webster	<p>The drafting of this policy has been placed on Legal and Policy Works program for 2010/2011. Commencement of drafting this policy will occur when current projects are completed.</p>
5.1 - Notice of Motion – Planning Disputes Mediation Process Trial	Shire Planning	10 February 2010 Cr Eaton / Cr Graham	<p>This item has been included in the Legal and Policy Works Program to be commenced mid 2010.</p>

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

Notice of Motion	Department	Meeting Resolved	Status
10.1 –Notice of Motion – LDO Coal Chain Valley Bay Colliery	Shire Planning	10 March 2010 Cr Wynn / Cr Vincent	A letter has been issued to the LDO informing it of the Council resolution. A letter was forwarded to Department of Planning in relation to Resolution 4. To address Resolution 5, an audit and assessment of roads impacted by the proposal has been completed. Impact considered to be negligible. Council will continue to monitor. DOP have requested an Adequacy Review be undertaken by Council. A letter of response has been prepared incorporating Council's comments.
9.4 - Notice of Motion – Costs of the Survey and Preliminary Design to the Entry Road and Intersection at Warnervale Town Centre	Shire Planning	24 March 2010 Cr Graham / Cr Vincent	Ongoing discussions being held with all relevant stakeholders to reach an outcome on the sharing of costs for the construction of the entry road.
8.1 - Notice of Motion – Bike Racks on buses	Shire Planning	14 April 2010 Cr Best / Cr Wynn	A report will be submitted to Council in July 2010.
8.2 - Notice of Motion – Access to Council Information – Anywhere, Anyhow, Anytime	Corporate Services	14 April 2010 Cr McNamara / Cr Graham	A report will be submitted to Council on 28 July 2010.
8.4 - Notice of Motion – Public Access to Coast via Tuggerah Lakes Golf Course	Corporate Services	14 April 2010 Cr Eaton / Cr Best	A report will be prepared for Council's consideration once legal advice has been received.
7.1 Notice of Motion - Traffic Jams Priority List	Shire Planning	28 April 2010 Cr Eaton / Cr Best	A report will be submitted to Council in August 2010.
7.2 Notice of Motion – Shared Pathway (matching funds for Pathways and Various Council Facilities)	Shire Services	12 May 2010 Cr Wynn / Cr Vincent	In reference to Resolution 4, draft guidelines will be prepared for a briefing of Councillors in July with the aim to report the guidelines to Council in August 2010.

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

Notice of Motion	Department	Meeting Resolved	Status
7.3 Notice of Motion – Proposed Closure – Tristram Close and Renee Close Laneway, Lakehaven	Shire Services	12 May 2010 Cr Best / Cr McNamara	Staff have initiated investigations. Actions to date include research into the purpose of the laneway and its existing condition, the mailout of a survey to residents, requests for information from NSW Police. Investigations completed June 2010 and report to be submitted to Council on 11 August 2010..
7.6 Notice of Motion – Warnervale Town Centre Viability	Shire Planning	12 May 2010 Cr Eaton / Cr Best	A report will be submitted to Council in August 2010.
9.1 Notice of Motion – Warnervale City project Team	Shire Planning	26 May 2010 Cr Best / Eaton	A report will be submitted to Council in July 2010.
9.4 Notice of Motion – Exhibition Period of Policies and Strategies	Shire Planning	26 May 2010 Cr Wynn/Eaton	A report will be submitted to Council in July 2010.
9.5 Notice of Motion – Community Twenty20 (T20) Cricket	Shire Services	26 May 2010 Cr McNamara/ Graham	Draft report developed with key stakeholders being consulted. Report to be submitted to Council on 28 July 2010.
9.1 Notice of Motion – Department of Housing Expansion	Shire Planning	9 June 2010 Cr Best / Eaton	The Department of Housing has been contacted.
9.2 Notice of Motion – Installation of Disabled Beach Access at the Lakes Beach Surf Club	Shire Services	26 May 2010 Cr Vincent / Matthews	A response will be submitted to Council's meeting of 11 August 2010.

Questions Without Notice and Notices of Motion Removed from the Above Lists since the Previous Meeting

Question without Notice / Notice of Motion	Date Asked / Resolved	Outcome
Q78/10 Dredging of The Entrance Channel	28 April 2010 Cr Best	Response included in this business paper
Q84/10 Tacoma Public School	26 May 2010 Cr Best	Response included in this business paper
Q86/10 Extension of Consent Period for Current Development Applications	23 June 2010 Cr Eaton	Response included in this business paper

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

Question without Notice / Notice of Motion	Date Asked / Resolved	Outcome
5.2 Notice of Motion – Elected Council Independent Legal Advisor	10 February 2010 Cr Eaton / Cr Graham	This NOM has been superseded by the intended recruitment of a General Counsel
10.5 Notice of Motion – Traffic Gridlock San Remo	10 March 2010 Cr Matthews / Cr Vincent	Response included in this business paper

ATTACHMENTS

Nil.

7.1 Answers to Question Without Notice

TRIM REFERENCE: F2004/11029 - D02267884 AUTHOR: SF

7.1 Q78/10 Dredging of The Entrance Channel

The following question was asked by Councillor Best at the Ordinary Meeting on 28 April 2010 :

“Further to the recent staff advice that the now almost completely closed Entrance channel will now be dredged and the impact of the closure has understandably impacted on locals and holiday makers alike, not to mention the environment within of our lake. Could staff please provide information and background as to the processes that resulted in the channel closing including actions, authorities and approvals from other Government Departments and why the original decision to service the dredge, whilst coming into its operational season, was made?”

The movement of sand into and out of the entrance of an estuary is a complex phenomenon because of the interaction of tidal, wave and freshwater transport processes. Regularly, volumes of sand are naturally transported in and out of the estuary with the tide. With sand that is transported out of the entrance by floods, it is deposited on or near the entrance bar, where it is then carried generally in a south to north direction along the coastline – this natural process is why the entrance mouth closes.

The dredge haul out, maintenance work and survey (required by NSW Maritime) was originally planned to be undertaken in winter 2009 but did not eventuate until September. This was predominantly due to longer than anticipated authorisations and approvals from external agencies. It should be noted, however, that the regular dredging of the Channel does not take place in Summer because this is the major holiday season and it is considered inappropriate to affect the ability of the area to be used by residents and tourists during the peak season. In addition, operation of the dredge during the peak season would also present potential safety risks should there be people in the water or in boats at the time.

ATTACHMENTS

Nil.

7.2 Answers to Question Without Notice

TRIM REFERENCE: C2010/05396 - D02272024 AUTHOR: MC

7.2 Q84/10 Footpaths in Hillcrest and Wolseley Avenues, Tacoma

The following question was asked by Councillor Best at the Ordinary Meeting on 26 May 2010:

"I table this correspondence dated 25 May 2010 from the Principal of Tacoma Public School seeking advice as to the necessary steps to have footpaths installed in sections of Hillcrest and Wolseley Avenues, Tacoma as children as young as five have no alternative but to walk on the carriageway to get to school."

Council is responsible for 1040 km of constructed roads and 160 km of constructed footpaths within the road corridors of the Shire. Whilst concrete footpaths are installed as standard infrastructure in the newer residential subdivisions at the developers cost, the retrofitting of footpaths into the older areas of the Shire is funded by a combination of Council general fund and property owner contributions.

Requests for footpaths from the public are received in writing and their priority assessed against criteria. These criteria include existing pedestrian usage, safety issues, condition of the existing path(s), access to schools, shops, community facilities etc, and the economic cost and benefit.

A priority listing of footpath requests is maintained and customers are advised on the outcome of the assessment in terms of the relative priority. Each year the highest priority footpath projects to the value of the proposed budget allocation are identified within the Rolling Workings program and adopted as part of the Management Plan process.

The 2010-11 Management Plan makes provision for \$391K for the construction of new concrete footpaths. This funding allows for the construction of eight priority projects totaling approximately 3km of footpath.

ATTACHMENTS

Nil.

7.3 Answers to Question Without Notice

TRIM REFERENCE: F2004/07052 - D02279836 AUTHOR: JD

7.3 Q86/10 Extension of Consent Period for Current Development Consents

The following question was asked by Councillor Eaton at the Ordinary Meeting on 23 June 2010 :

“Could Council staff confirm that all current live Development Applications now have a five year consent period due to new State Government Regulation?”.

In compliance with the Environmental Planning and Assessment Amendment (Development Consents) Act 2010, all current Development Consents will have a five year consent period. This will be effective up until 1 July 2011.

ATTACHMENTS

Nil.

14 July 2010

To the Ordinary Meeting

Councillor

8.1 Notice of Motion - Clause 14 Fund improving conservation outcomes

TRIM REFERENCE: F2004/12208 - D02274631

AUTHOR: SW

Councillor Wynn has given notice that at the Ordinary Meeting to be held on 14 July 2010 she will move the following Motion:

“That staff investigate and report back to Council by the end of August on the best use of the Clause 14 (3) (b), funds for improving conservation outcomes.”

14 July 2010

To the Ordinary Meeting

Councillor

8.2 Notice of Motion - Energy Efficient Street Lighting

TRIM REFERENCE: F2010/00500 - D02275962

AUTHOR: SW

Councillor Wynn has given notice that at the Ordinary Meeting to be held on 14 July 2010 she will move the following Motion:

“That Council lobby the Federal Minister for Climate Change, Energy Efficiency and Water to legislate for the compulsory installation of energy efficient street lighting to replace the current light fittings, which do not meet best practice, within a five year period, and specifically to support a standard of energy efficient luminaries such as the compact fluorescent and LED.

The cost of the change over should not be borne by Wyong Shire Council.”

COUNCILLOR’S NOTE

Street lights account for, on average, over a third of total energy consumption for councils. Current light fittings are very inefficient and, as a result, generate more greenhouse gases.

Councils have no legal rights to change the light globes to more efficient globes as this is the domain of the energy providers.

Under the current policy, only those globes that fail are being replaced with energy efficient globes which mean that it could be up to 25 years before all globes are converted to energy efficient ones.

Councils are forced to pay ever increasing energy charges for these inefficient globes and these charges are set to increase dramatically.

14 July 2010

To the Ordinary Meeting

Councillor

8.3 Notice of Motion - Council's Opposition to Commercial Whaling

TRIM REFERENCE: F2004/10946 - D02285913

AUTHOR: GB

Councillor Best has given notice that at the Ordinary Meeting to be held on 14 July 2010 he will move the following Motion:

- "1 That Council reaffirm its strident opposition to the prospect of the reintroduction of commercial whaling, in particular the recent push to include humpbacks in the cull in the Antarctic Marine Sanctuary.*
- 2 That Council congratulate the Federal Government and our Federal local members for their strong opposition to this outrageous activity and further commend the Federal Government's initiative of legal action in the international courts.*
- 3 That Council also congratulate the organisers and supporters of this year's Community Whale Dreamers Festival held at the Norah Head lighthouse on Sunday 4 July for their highly successful and outstanding community event.*
- 4 That staff compile a report in conjunction with the organisers of the Whale Dreamers Festival outlining key issues, costs and administrative activities associated with Council considering this event in Council's community calendar of events."*