

- The adjustment and relocation of any utility services necessary for the construction of the box culvert system. All costs associated with these works are to be borne by the applicant.
- The works are to be operational as determined by Council prior to the removal of the existing box culvert system that traverses the site and the commencement of the building construction works.
- The trunk drainage outlet works within the Pacific Highway shall be endorsed by the RMS prior to the commencement of trunk drainage works.
- The construction works are to be carried out in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development.

Design plans must be approved by Council as the Roads Authority prior to issue of the building Construction Certificate.

- 31 Stormwater drainage works external to the site and discharging into a public system or public land requires approval from Council under Section 68 of the Local Government Act 1993. Detailed design drawings prepared in accordance with Council's Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development* must be approved by Council prior to the issue of a Construction Certificate. All other internal stormwater management works must be approved by the Accredited Certifier.
- 32 The provision of a stormwater system with water quality control facilities to service the building and car parks are required to treat stormwater runoff from the development. The design shall be prepared in accordance with Australian Runoff Quality and Council's Development Control Plan 2005 Chapter 67 - Engineering Requirements for Development. Design plans must be submitted to and approved by the Accredited Certifier prior to issue of a Construction Certificate.

The stormwater drainage system servicing the building shall include the provision of a Rainwater Re-Use system to collect generated run-off from the roofed areas to service toilet flushing and landscaping within the site. The tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500, shall include first flow diversion devices fixed to all inflows, be provided with a functioning pressure pump, and be plumbed to service all fixtures . The tank must be controlled such that supplemental flows from Council's water mains do not take place until the tank is at least 80% empty. Design plans must be approved by Principal Certifying Authority prior to issue of the Construction Certificate.

### **Structural Design Requirements**

- 34 Any excavation below the adjoining land level requires the retaining of that land and the preservation and protection of any improvements or buildings upon that land including public roads and utilities from damage. If necessary, the improvements or buildings are to be supported in a manner designed by a suitably qualified Registered Structural Engineer. Any design proposals prepared in order to comply with this condition are to include geotechnical investigations and are to be submitted for the approval of the Accredited Certifier and in the case where excavation impacts upon public infrastructure, Council, prior to issue of the Construction Certificate.

## Water and Sewer Services - Design Requirements

- 35 All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent. **Note:** The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

## Liquid Trade Waste – Application and Approval

- 36 The submission of a trade waste application and subsequent approval by Council to discharge liquid trade waste into the sewerage system prior to issue of the Construction Certificate.

## Prior to Commencement of Works:

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

## Erosion and Sediment Control Requirements

- 37 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.
- 38 Prior to works associated with the development commencing, a single all-weather hardstand access, extending from the kerb and gutter/edge of bitumen to the building under construction, is to be installed in order to provide appropriate access to the site during periods of inclement weather.
- 39 Prior to works associated with the development commencing, suitable sediment control kerb inlet trap devices are to be provided downstream of the development site adjoining locations such as kerb inlet drainage pits, in order to prevent any silt that may have left the site from entering the drainage system. The build up of silt and debris behind the required kerb inlet trap devices is to be removed from the site on a daily basis.
- 40 Prior to works associated with the development commencing, an appropriate sign to promote the awareness and importance of the maintenance of on-site sediment control techniques is to be provided on the most prominent sediment fence or erosion control device within the development site, for the duration of the project.

## Filling and Haulage Requirements

- 41 Prior to works associated with the development commencing, details for the disposal of any spoil gained from the site and/or details of the source of fill materials to be imported to the site, are to be provided and approved by the Principal Certifying Authority.

## Demolition

- 42 Building demolition work is to be carried out in accordance with the requirements/provisions of the AS2601-2001 - The Demolition of Structures.
- 43 Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under Clause 318 of the *Occupational Health and Safety Regulation 2001*.
- the person having the benefit of the consent must provide the Principal Certifying Authority with a copy of a signed contract before any development pursuant to the consent commences.
  - any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the material is to be delivered.

## Protection of Adjoining Property Requirements

- 44 Prior to works associated with the development commencing, the owner of the adjoining property affected by the proposed excavation and/or structural protective works, must be given written notice of the intention to commence works. The required notice must be accompanied by details of the proposed work at least seven (7) days prior to the commencement of proposed excavation and/or structural protective works.
- 45 Prior to works associated with the development commencing, the applicant must supply the Principal Certifying Authority with a dilapidation report for the adjoining properties, which documents and photographs the condition of buildings and other improvements. The report must be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works. **Note:** The report is to be made available by the Principal Certifying Authority in any private dispute between neighbours regarding damage arising from construction works upon the development site.

## Roads - Preconstruction Requirements

- 46 Prior to commencing any works upon public roads the developer and their contractor will be required to:
- Obtain a copy of the Council approved Civil Works plans and pavement design (if applicable).
  - Obtain a copy of Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development*. This is Council's Specification for Civil Works and is available on Council's web site.
  - Arrange a meeting on-site with Council's Principal Development Construction Engineer on (02) 4350 5555.

- 47 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.
- 48 Prior to works associated with the development commencing, a Plan of Management is to be submitted to and approved by Council as the Roads Authority for any works or deliveries that impact on any public roads or public land as a result of the construction of the development. The plan must include a Traffic Control Plan prepared by a person holding Roads and Maritime Services (RMS) accreditation for selecting and modifying traffic control plans. Fees and charges are applicable to the review and approval of the required management plan in accordance with Council's Plan of Management.

### Site Requirements

- 49 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.
- 50 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
- be a standard flushing toilet connected to a public sewer system; or
  - have an on-site effluent disposal system approved under the Local Government Act 1993, or be a temporary chemical closet approved under the Local Government Act 1993, supplied by a suitably licensed contractor.
- 51 Prior to works associated with the development commencing, a suitable metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) is to be provided upon the development site for the duration of the construction phase of the development in accordance with the requirements of Development Control Plan 2005, Chapter 100 – Quality Housing. The required waste receptacle is to be suitably emptied at appropriate times during the construction phase of the development.

- 52 Prior to works associated with the development commencing, a suitable hoarding or safety fence between the work site and the public place is to be provided in accordance with Work Cover Authority requirements. The required hoarding/fencing is to remain in place during the construction phase of the development. Should the hoarding/fencing be required to be provided within the road reserve area, approval from Council under the Roads Act as the Roads Authority is required to be obtained prior to its erection.
- 53 Prior to works associated with the development commencing, it is the builder's responsibility to confirm the location and depth of the sewer main and connection point in relation to the floor level, to ensure that appropriate connection to the sewer can be achieved.
- 54 Prior to works associated with the development commencing, where any excavation is proposed in proximity to existing gas and/or electricity networks, the developer is advised to notify 'Dial Before You Dig' of the time and place of work no more than thirty (30) days before the work commences. The developer must satisfy any requirements as set by the network operators in carrying out excavation works.

## **During Construction Works:**

*The following conditions must be satisfied during construction works.*

### **Acoustic**

- 55 During demolition and construction all recommendations concerning these works made in the acoustic report prepared by Wilkinson Murray, Report Number 99204 – WN2 dated July 2010 accompanying the application must be complied with.

### **Acid Sulphate Soils – Construction Requirements**

- 56 Upon completion of excavation works, documentary evidence is to be provided for the approval of the Principal Certifying Authority demonstrating compliance with the requirements of the Acid Sulphate Soils Management Plan submitted with respect to the development.

### **Approved Plans**

- 57 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

### **Dust Control Requirements**

- 58 Suitable dust suppression measures shall be implemented and maintained by the developer during demolition, excavation and construction works associated with the development. Such measures are required to minimise the emission of dust and other impurities into the surrounding environment.

### Earthworks and Haulage - Construction Requirements

- 59 During construction works, all fill is to be placed on site in such a manner that surface water will not be permanently or temporarily diverted to adjoining land.
- 60 All site fill material shall be classified as Virgin Excavated Natural Material (VENM) or Excavated Natural Earth (ENM) in accordance with the Waste Classification Guidelines – Part 1: Classifying Waste published by the Department of Environment, Climate Change and Water NSW (now Office of Environment and Heritage). Site fill material shall be certified as VENM or ENM by a practising Geotechnical Engineer prior to haulage to site. Certification documentation shall be provided to the Principal Certifying Authority throughout the construction phase of the works.

### Erosion and Sediment Control - Construction Requirements

- 61 All sediment and erosion control devices provided with respect to the development are to be periodically cleaned and maintained in an effective state for the duration of works. On the spot fines for non-compliance with this requirement may be issued under the provisions of the *Protection of Environment Operations Act, 2000*.

### Flooding - Construction Requirements

- 62 The minimum floor level of the shop area of the building is to be RL 6.71 metres AHD. Certification from a Registered Surveyor confirming that the minimum floor levels have been achieved must be submitted to the Principal Certifying Authority when the dwelling reaches floor level stage. **Note:** Framework associated with the building is not to be erected until such time as the floor level certification is received.

### Plumbing and Drainage - Construction Requirements

- 63 Council as the Water Supply Authority, under the provisions of the Water Management Act, or in unsewered areas where an onsite sewage management facility is to be installed, is to be notified to undertake inspections of the internal drainage lines, (prior to the pouring of the concrete slab), and external drainage lines inclusive of sewer junction connection, prior to the backfilling of the trenches. These inspections can be arranged by telephoning Council's Customer Contact Centre on (02) 4350 5555 a minimum of twenty-four (24) hours prior to the required time for the inspection. Please note that all drainage inspection fees are to be paid to Council prior to plumbing and drainage works associated with the development commencing.

### Services/Utility Requirements

- 64 Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - AGL Sydney Limited for any change or alteration to gas line infrastructure;

- Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
- Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

**Food Act Requirements**

- 65 A floor waste is to be provided in the floor immediately outside of the chiller and freezer rooms.
- 66 The chiller and freezer rooms shall be provided with a floor finish that can be effectively cleaned, is non-absorbent and is graded to the external floor waste.
- 67 All floor pallets and shelves are to be designed and constructed to permit the effective cleaning of the floor.
- 68 All refrigeration and chest freezer cabinets are to be designed and constructed to exclude dirt, dust and pests.
- 69 Shelving located around the perimeter of the retail area is to be fixed to the wall and silicone-sealed to the floor and walls.
- 70 Shelving located within the aisles of the retail area is to provide a minimum clearance of 150mm to the underside of the bottom shelf. They are not to be provided with kick plates.

**General**

- 71 The developer is responsible for any costs relating to alterations and extensions of existing roads, drainage, Council services and other services for the purposes of the development.

**Site Requirements**

- 72 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
- 73 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.

**Prior to Release of Occupation Certificate:**

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

**Building Code of Australia – Compliance Requirements**

- 74 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

**Dilapidation Rectification Requirements**

- 75 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.

**Disabled Access Requirements**

- 76 Prior to the issue of an Occupation Certificate, access to and throughout the buildings shall comply with AS 1428.1-2009 and the objectives of the *Disability Discrimination Act 1992* (Commonwealth).

**External Colours/Finishes Requirements**

- 77 Prior to the issue of an Occupation Certificate, the completed development must comply with the schedule of external colours and materials submitted with the application and as shown on the materials board/model/photomontage.

**Liquid Trade Waste – Requirements**

- 78 Where the proposed use of the development discharges waste other than domestic sewage, then the submission of a liquid trade waste application and subsequent approval by Council as the Water and Sewer Authority, to discharge liquid trade waste into the sewerage system is required prior to issue of the Occupation Certificate.

**Flooding – Compliance Requirements**

- 79 Prior to the issue of an Occupation Certificate, all electrical circuits below the 1% AEP flood level are to be provided with a residual current device.
- 80 An Emergency Evacuation Management Plan shall be prepared to address emergency operations such as an early warning system to enable sufficient response time to relocate vehicles from the Hardware Lane and North Road car parking areas to a designated area, relocation of vehicles from disabled parking spaces, evacuation procedures and pedestrian access points including the provision of flood depth markers within the car park and Hardware Lane.



**Title – Compliance Requirements**

- 81 The consolidation of Lot 13 DP 658933, Lot 14 DP 658934, Pt Lot 11 Sec 1 DP 3136, Pt Lot 12 Sec 1 DP 3136 and Lot 112 DP 555924 into one lot by registered subdivision prior to the issue of an Occupation Certificate. Documentary evidence of the Consolidation Plan registration with the Land and Property Management Authority must be submitted to the Accredited Certifier prior to the issue of the Occupation Certificate.
- 82 The extinguishment of the existing “Drainage Easement” that traverses the site and the creation of a “Positive Covenant” for maintenance of the stormwater secondary flow path and a “Restriction as to the Use of Land” to prohibit any modification to the surface levels of the flow path that traverses the car park and under the building. The covenant and restriction shall burden the subject consolidated lots and benefit Wyong Shire Council, and nominate Wyong Shire Council as the sole authority to vary or modify.
- 83 The dedication of a 1.0 metre wide “Drainage Easement” at no cost to Council along the western boundary of the site (PT 11& 12 DP 3136, Lot 13 DP 658933 and Lot 14 DP 658934) adjoining Hardware Lane to accommodate the Trunk Drainage Box Culvert works prior to the issue of the Occupation Certificate.

**Roads – Compliance Requirements**

- 84 All road signage and pavement marking works must be completed in accordance with the plans approved by the Local Traffic Committee and approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.
- 85 The provision of any additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development works are to be approved by Council as the Roads Authority prior to issue of the Occupation Certificate.
- 86 All works within the public road must be completed in accordance with the approved Civil Works design drawings and Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development* and be approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.
- 87 Any road works and or traffic control facilities within a state road must be completed in accordance with the approved Civil Works design drawings and RTA Works Authorisation Deed, and be jointly approved by Council as the Roads Authority and the RTA prior to the issue of any Occupation Certificate.
- 88 All works relating to bus servicing facilities adjacent the development within the Pacific Highway must be completed in accordance with the approved Civil Works design drawings and approved by Council as the Roads Authority prior to issue of the Occupation Certificate.

**Food Act Requirements**

- 89 No food handling, (as defined by the NSW Food Act 2003), is permitted in the food premises prior to the issue of the Occupation Certificate.
- 90 All liquid trade waste is required to pass through a basket arrestor with fixed screens, fitted to all floor wastes and sinks, before being discharged into the sewerage system.
- 91 Compliance with the requirements of the New South Wales Food Act 2003, the Food Regulation 2004, and AS4674–2004 – Design, Construction and Fitout of Food Premises, and AS1668, Part 11 – Mechanical Ventilation, for all food preparation and food storage areas, including liquor areas.
- 92 The installation of hand wash facilities with a minimum dimension of 500mm x 400mm providing warm running water through a common mixing spout with hands-free tap operation (consisting of elbow or wrist operated tap levers, foot or hip operated tap levers, or electronic sensor tap operation).

**Statutory Certificate Requirements**

- 93 Prior to the occupation of the building occurring, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority. Occupation of the development without an Occupation Certificate is an offence under the provisions of the Environmental Planning and Assessment Regulation, 2000.
- 94 Prior to the Issue of an Occupation Certificate, a Final Fire Safety Certificate, as required by Clause 153 of the Environmental Planning and Assessment Regulation, 2000, certifying that all the Fire Safety Measures within the building have been designed and installed in accordance with the relevant standard of performance as nominated by the Fire Safety Schedule issued with the Construction Certificate, is to be supplied for the approval of the Principal Certifying Authority. Such Final Fire Safety Certificate is also to be displayed within a prominent location within the building such as the main entry.

**Landscaping Requirements**

- 95 Prior to the issue of an Occupation Certificate, to ensure landscaping works are properly completed, the landscape designer must provide certification to the Principal Certifying Authority certifying that landscaping has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent.
- 96 Prior to the issue of an Occupation Certificate, landscaping is to be provided to the development site in accordance with Council's Policy Number L1 for a Category 3 development in accordance with Plan reference No 501 A. Required landscaping is to be the subject of an appropriate landscape implementation report from the approved landscape consultant submitted to and approved by the Principal Certifying Authority.

- 97 Prior to the issue of an Occupation Certificate, a detailed maintenance schedule for all landscaping areas associated with the development is to be provided to and approved by the Principal Certifying Authority. A maintenance schedule is to be included for a 52 week schedule.

Minimum pot sizes for *Waterhousia floribunda* (Wf) are to be 200 litre. All trees are to adhere to NATSPEC regulations.

### **Stormwater – Compliance Requirements**

- 98 The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2004. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.
- 99 The construction of stormwater drainage works external to the site and discharging into a public system or public land in accordance with the approved Stormwater Management Plan and Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development*. All works must be approved by Council under Section 68 of the Local Government Act 1993 prior to issue of the Occupation Certificate. All other stormwater management works must be approved by the Principal Certifying Authority.

### **Work as Executed Requirements**

- 100 Prior to the issue of an Occupation Certificate, Works as Executed information for the development as identified in Council's Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development* is to be submitted to and approved by Council. The required Works as Executed information is to be submitted in hard copy and in electronic format in accordance with Council's 'CADCHECK' requirements.

### **Voluntary Planning Agreement**

- 101 Pursuant to Section 80(A)(1) of the Environmental Planning and Assessment Act 1979, the voluntary planning agreement that relates to the development application the subject of this consent must carry to effect before the issue of the Occupation Certificate for the development or alternatively any dates specified in the agreement.

### **Awnings Over Public Land**

- 102 A structural report to be submitted to Council every 5 years confirming the structural integrity of the awning.
- 103 A Section 88B Instrument shall establish the following restrictive covenants with the Council having the benefit of these covenants and having sole authority to release vary or modify these covenants.
- That a positive covenant be registered over the area of the awning encroaching public land for maintenance purposes.

- 104 That a minimum height clearance of 3 metres be provided under any awning where public services are located in the footpath.

## Ongoing Operation:

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

### Acoustic - Operation

- 105 To ensure reasonable acoustic amenity for surrounding properties is maintained, all recommendations made in the acoustic report prepared by Wilkinson Murray, Report Number 99204 – WN2 dated July 2010 accompanying the application must be complied with.
- 106 After six (6) months of occupation at the site it must be demonstrated that the noise levels at the sites boundaries do **comply** with the calculated levels used in Appendix 12 of the Statement of Environmental Effects and/or the levels prescribed in the Department of Environment and Climate Change's 'Industrial Noise Policy'.
- 107 As this proposal borders a residential area the amenity of neighbouring occupants and residents will be preserved by restricting vehicle deliveries along Hardware Lane including waste removal to between the hours of:

7:00am and 8:00pm Monday to Friday  
8:00am and 8:00pm Saturdays and Sunday

The shop shall comply with the following hours or operation:

Monday to Sunday                      8.00 am to 9.00 pm

- 108 Regular servicing and maintenance of plant and machinery is to be undertaken to ensure that it is run in a proper and efficient manner.

### Advertising Signs

- 109 No advertisement other than those signs approved under this consent shall be erected on or in conjunction with the use and/or development without prior development consent unless the advertisement is an 'approved sign' under Development Control Plan 2005, Chapter 50 - Advertising Signs. In addition, the approved "lifestyle graphic" on the shop's northern façade is not to contain or to include logos, names or any other form of product or business advertising.
- 110 The signs approved under this consent must be maintained to a reasonable standard or condition.

### Amenity

- 111 Where an intruder alarm is installed on the premises it must be fitted with a timing device in accordance with the Protection of the Environment operations Act 1997.

**Building – Maintenance**

112 The building's surfaces shall be maintained in a graffiti-free state.

**Car Parking - Maintenance**

113 All on-site vehicle parking areas, driveways and manoeuvring areas are to be maintained for the life of the development.

**Landscaping - Maintenance**

114 All landscaping is to be maintained in accordance with the approved landscape plan as amended by the conditions of this consent and with the approved maintenance schedule for the life of the development.

**Restrictions on Operations**

115 All work and the storage of goods and/or materials must be confined to within the building.

116 All lighting must be designed so as to ensure that glare does not adversely affect any adjoining property.

117 Goods delivered to or awaiting pick-up from the shop shall not be stored on any public land.

118 The at-grade car park on the corner of Hely Street and North Road and Hardware Lane and the at-grade car park adjacent to the shop shall be secured after shop operating hours to prevent vehicular access to the car parks.

**Shopping Trolleys**

119 Coin operated trolleys or electronic devices fitted to the trolleys to prevent removal from the site is required.

**Stormwater - Maintenance**

120 All stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained for the life of the development in order to remain effective.

**Vehicle Access - Maximum Length of Delivery/Service Vehicles**

121 Service vehicles accessing the site via Hardware Lane are to be a maximum of 15.3 metres in length.

**Waste Management – Compliance**

122 The premises must operate in compliance with the Waste Management Plan, submitted with the development application and in accordance with Development Control Plan 2005, Chapter 69 - Controls for Site Waste Management.

123 All waste generated on the premises shall be stored in a manner so that it does not pollute the environment.

- 124 All waste generated on the premises shall be transported to a facility which is licensed to receive that material.

## **SCHEDULE OF CONTRIBUTIONS**

Wyong Urban Nth Water DSP	\$12,166.18
Wyong Nth Area Sewer DSP	\$15,307.08

#### **4.7 DA/686/2012 Proposed Dwelling and an Attached Secondary Dwelling at Wyong**

---

TRIM REFERENCE: DA/686/2012 - D03196858

MANAGER: Jamie Loader, Manager Building Certification and Health

AUTHOR: Scott Rathgen; Team Coordinator

#### **SUMMARY**

An application has been received for a 3 bedroom dwelling and a 2 bedroom attached secondary dwelling. 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) 1979, the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

As this application was lodged prior to 1 September 2012, the applicant has requested that Council waive the Section 94 contributions as per the resolution made by Council on the 8 February 2012.

<b>Applicant</b>	Mr T Lalehzari
<b>Owner</b>	Mr T Lalehzari
<b>Application No</b>	DA/686/2012
<b>Description of Land</b>	Lot 17 DP 709238, No 19 Wakehurst Dr Wyong
<b>Proposed Development</b>	Single Storey Dwelling and attached Secondary Dwelling
<b>Site Area</b>	760.50 m <sup>2</sup>
<b>Zoning</b>	2(A) Residential
<b>Existing Use</b>	Residential
<b>Estimated Value</b>	\$178,000

#### **RECOMMENDATION**

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

#### **PRECIS**

- An application has been received for a 3 bedroom dwelling and a 2 bedroom attached secondary dwelling.
- The site is zoned 2(A) Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP 1991).

#### 4.7 DA/686/2012 Proposed Dwelling and an Attached Secondary Dwelling at Wyong (contd)

- The secondary dwelling complies with the schedule of development standards of Part 2- Division 2 and Schedule 1 – Development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009.
- The dwelling meets the requirements of Council's Development Control Plan (DCP) in terms of Chapters 99 Building Lines and Chapter 100 Quality Housing.

## INTRODUCTION

### The Site

The site has a northern orientation and slopes to the northern boundary. The land is vacant and unimproved. The site has a number of established trees and eight (8) of these trees are noted for removal

The adjoining properties consist of single storey dwellings. The site is served by an access handle to the Wakehurst Drive frontage.





4.7 DA/686/2012 Proposed Dwelling and an Attached Secondary Dwelling at Wyong (contd)

---

Southern View of Site



View along Northern Boundary of site



#### **4.7 DA/686/2012 Proposed Dwelling and an Attached Secondary Dwelling at Wyong (contd)**

---

The application has been referred to Council for determination solely based upon the Council resolution of 8 February 2012, (in particular Resolution 6) which states:

*Council at its meeting held on 8 February 2012 Resolved unanimously on the motion of Councillor Best and seconded by Councillor Symington:*

- “1 That Council reaffirm its commitment to the principles of affordable housing and its importance in assisting a broad cross section of our community and recognise that Section 94 contributions may be prohibitive to many affordable housing projects.*
- 2 That Council note the decision of Gosford City Council to assist in facilitating affordable housing through the trial waiver of Section 94 contributions for granny flats.*
- 3 That Council support this initiative thereby establishing a regional approach to affordable housing.*
- 4 That Council also waive Section 94 contributions for granny flats on a trial basis till September 2012, concurrent with Gosford City Council and that the outcome of this be reported to Council.*
- 5 That Council receive the report in a timeframe for inclusion in the 2012-13 Annual Plan.*
- 6 That Council implement the trial by way of reporting those relevant development applications to Council for determination.”*

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

AGAINST: NIL

Due to the application being lodged prior to 1 September 2012, the applicant has requested that the Section 94 contributions be waived as per item No 4 of the abovementioned motion.

The approval of the dwelling and attached secondary dwelling would not create any adverse impact on adjoining properties. As such, it is recommended that the application be approved subject to conditions.

#### **VARIATIONS TO POLICIES**

Nil

#### **HISTORY**

Nil

#### **PERMISSIBILITY**

The subject site is zoned 2(a) Residential zone under the WLEP 1991. The proposal is permissible with consent and complies with the objectives of the zone as follows:

#### **4.7 DA/686/2012 Proposed Dwelling and an Attached Secondary Dwelling at Wyong (contd)**

---

- (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 dwelling and attached secondary dwelling are permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

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

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

- SEPP (Affordable Rental Housing) 2009
- WLEP 1991
- Wyong Council DCP Chapters 14 'Tree management'
- Wyong Council DCP Chapters 99 'Building Lines'
- Wyong Council DCP Chapters 100 'Quality Housing'

#### **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 the SEPP (Affordable Rental Housing) 2009, statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information.

#### **4.7 DA/686/2012 Proposed Dwelling and an Attached Secondary Dwelling at Wyong (contd)**

---

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

##### **Rural Fires Act 1997**

The objects of this Act are to provide:

- a. *for the prevention, mitigation and suppression of bush and other fires in local government areas (or parts of areas) and other parts of the State constituted as rural fire districts*
- b. *for the co-ordination of bush fire fighting and bush fire prevention throughout the State*
- c. *for the protection of persons from injury or death, and property from damage, arising from fires*
- d. *for the protection of the environment by requiring certain activities referred to in paragraphs (a)–(c) to be carried out having regard to the principles of ecologically sustainable development described in section 6 (2) of the Protection of the Environment Administration Act 1991.*

The application is not required under the Section 100B of the “act” to gain a bush fire safety authority from NSW Rural Fire Service (RFS) however, the applicant has prepared a bush fire assessment in accordance with the objectives for the RFS Planning for Bushfire Protection Guidelines (PBP). A review of this report indicates that the proposal complies with these guidelines.

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

The property is zoned 2(A) Residential zone. The secondary dwelling is proposed under the provisions of SEPP (Affordable Rental Housing) 2009 which overrides any provisions contained with the WLEP.

##### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

SEPP (Affordable Rental Housing) 2009 permits secondary dwellings up to a maximum floor area of 60m<sup>2</sup>. The proposed secondary dwelling has a floor area of 54.94. The subject allotment also exceeds the minimum area of 450m<sup>2</sup>. Under these circumstances the development is fully compliant with the SEPP. Under these circumstances the proposed secondary dwelling is considered justified.

##### **Any Development Control Plans**

##### **Development Control Plan 2005 Chapter 99 – Building Lines**

Clause 3.1 of Chapter 99 – Building Lines requires a side and rear setback of 900mm to a boundary and the proposed development is fully compliant.

##### **Development Control Plan 2005 Chapter 100 Quality Housing**

The proposed 3 bedroom dwelling has been assessed against the relevant provisions of Chapter 100 – Quality Housing as follows;

#### **4.7 DA/686/2012 Proposed Dwelling and an Attached Secondary Dwelling at Wyong (contd)**

---

##### **Section 3.3 Site Preparation and Management**

The extent of cut and fill does not exceed the prescriptive requirements of Clause 3.3.3g

##### **Section 3.4 Streetscape**

The proposed development does not have frontage to any street.

##### **Section 3.5 Building Materials**

The materials of the proposed addition integrate and complement those in the locality.

##### **Section 3.6 Building Design**

The proposed development does not exceed the maximum site coverage of 60%.

The proposed development does not exceed the maximum height requirements of 7 metres to the ceiling of the uppermost storey and 11 metres to the peak of the roof.

The proposed development incorporates suitable architectural treatment to reduce the appearance of bulk.

The proposed development maintains unobstructed sunlight to a minimum of 75% of the subject property and adjoining properties external active living area.

The proposed development does not excessively compromise solar access of adjoining properties.

An assessment of potential over viewing, privacy and view sharing has been undertaken. It is concluded that the construction of the dwelling is not detrimental to the adjoining properties or those within the nexus of the development in relation to the above matters and any effect is considered insignificant.

##### **3.8 Site Design**

The proposed development has a private open space area that is orientated towards the sun and achieves a minimum of 3 hours of sunlight to at least 75% of the area between 9am and 3pm at winter solstice.

Two car parking spaces are provided on site as per the requirements of this clause.

##### **3.9 Sustainability**

The proposed development is BASIX affected and a BASIX certificate has been submitted with the application.

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

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

The proposed development is consistent with the scale and character of the local area of Wyong. The scale, bulk, height, massing and choice of materials and finishes for the development is considered appropriate to the local context.

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

Access to the site is provided from Wakehurst Drive Wyong.

The SEPP (Affordable Rental Housing) 2009 does not require additional parking or access to be provided for the secondary dwelling.

***Any effect on privacy, view loss and overshadowing***

An assessment of potential over viewing, privacy and view sharing has been undertaken. It is concluded that the construction of the dwelling is not detrimental to the adjoining properties or those within the nexus of the development in relation to the above matters and any effect is considered to be insignificant.

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

Existing services for the site are adequate for the proposed development.

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

BASIX certificate has been submitted with the application and the proposal involves the use of water saving fixtures and a water tank.

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

Nil to report

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

The proposal involves the removal of eight mature native trees on the property. A review of the trees has been undertaken by Council's Tree Preservation Officer and it has been concluded that there are no significant environmental concerns with the removal of these trees.

Under these circumstances the proposed tree removal is not a matter to prevent the approval of the development.

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

A waste management plan has been submitted with the development application and provides details of how waste will be managed during construction. The occupants of the secondary dwelling will utilise the waste collection services associated with the primary dwelling.

#### 4.7 DA/686/2012 Proposed Dwelling and an Attached Secondary Dwelling at Wyong (contd)

---

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

A BASIX certificate has been issued as part of the development application.

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

A minimal amount of noise and vibration will be created during the construction phase. A condition will be placed on the consent restricting the hours that construction work can take place.

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

The property is subject to a bushfire threat, however, a report has been submitted which demonstrates that the development would achieve compliance with (NSW Rural Fire Service) Planning for Bushfire Protection Guidelines.

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

During the construction of the works sediment fencing will be installed and construction noise will be minimised via conditions of consent.

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

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

The proposal meets the objectives of the zone and complies with the criteria contained within the SEPP (Affordable Rental Housing) 2009.

The development is within a residential area that contains a number of single and multiple dwelling developments. The secondary dwelling would not have any significant impact on the surrounding area and promotes an orderly and economic use of the land.

It is considered the effect on the environment will be minimal and the proposed dwellings will complement the existing streetscape and social amenity of the locality.

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

The site is considered appropriate for 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 with no submissions being received.

#### 4.7 DA/686/2012 Proposed Dwelling and an Attached Secondary Dwelling at Wyong (contd)

---

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

There are no submissions from public authorities.

#### **OTHER MATTERS FOR CONSIDERATION**

The property is within the Wyong / Rural West S94 contribution plan created under the provisions of Section 94 of The EP&A Act 1979. Section 94 contributions are applicable to secondary dwellings under this plan as defined under the Affordable Housing SEPP.

Under the Wyong / Rural West contribution plan the secondary dwelling would generate Section 94 contributions totalling \$5,965.15.

Section 94A contributions are not applicable with respect to this allotment.

#### **CONCLUSION**

The development application for a proposed secondary dwelling meets the standards of the relevant chapters of Council's DCP 2005 and the SEPP (Affordable Rental Housing) 2009. The application is recommended for approval subject to the attached conditions.

#### **ATTACHMENTS**

- |   |                              |           |           |
|---|------------------------------|-----------|-----------|
| 1 | Draft Conditions of Approval |           | D03196359 |
| 2 | Development Plans (A3 B&W)   | Enclosure | D03198013 |



## PROPOSED DRAFT CONDITIONS – DA 686/2012

- 1 The development taking place in accordance with the approved development plans reference number 0412 688 917 sheets A1 to A8 prepared by MSB Drafting dated 20/06/2012 except as modified by any conditions of this consent, and any amendments in red.

### Certificates – Application and Approval

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.

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

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

### Contribution Payment Requirements

- 3 Prior to the issue of a Construction Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

### Structural Design Requirements

- 4 Prior to the issue of a Construction Certificate, satisfactory structural plans prepared by a suitably qualified Registered Structural Engineer are to be submitted for the approval of the Accredited Certifier, for the following building elements
  - Structural concrete and steel.

### Water and Sewer Services - Design Requirements

- 5 All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent. **Note:** The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

## Prior to Commencement of Works:

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

### Ecology/Trees Requirements

- 1 Prior to works associated with the development commencing and for the duration of construction works, the following protocols are to be implemented to ensure tree and vegetation protection upon the development site:
  - Trees and vegetation to be retained as marked on the approved plan are to be protected by the erection of 1.8 metre-high chain wire interlocking fencing as per the engaged Arborist and/or Ecologist's direction, AS 4970-2009 - *Protection of Trees on Development Sites* and Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development*.
  - Erection of tree protection measures is to be confirmed to Council's Arborist prior to commencement of works, or alternatively Council must be notified to undertake an inspection of the works.
  - All fenced tree protection areas and are to be clearly marked as "No Go Area" on the fencing itself.
  - No clearing of vegetation or storage of vehicles or machinery, waste, fill or materials or unauthorised access is to occur within the fenced tree protection areas.
- 2 No tree (or other vegetation) other than those specifically notated on the approved plan(s) as "tree to be removed" shall be felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed or removed, without the further written consent of the Consent Authority.
- 3 Trees on adjoining properties must not be adversely affected by development activities.

### Erosion and Sediment Control Requirements

- 4 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.
- 5 Prior to works associated with the development commencing, a single all-weather hardstand access, extending from the kerb and gutter/edge of bitumen to the building under construction, is to be installed in order to provide appropriate access to the site during periods of inclement weather.

- 6 Prior to works associated with the development commencing, suitable sediment control kerb inlet trap devices are to be provided downstream of the development site adjoining locations such as kerb inlet drainage pits, in order to prevent any silt that may have left the site from entering the drainage system. The build up of silt and debris behind the required kerb inlet trap devices is to be removed from the site on a daily basis.
- 7 Prior to works associated with the development commencing, an appropriate sign to promote the awareness and importance of the maintenance of on-site sediment control techniques is to be provided on the most prominent sediment fence or erosion control device within the development site, for the duration of the project.

### Home Building Act Requirements

- 8 Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

In the case of work to be done by the holder of a contractor licence under that Act:

- the name and licence number of the contractor; and
- the name of the insurer by whom the work is insured under Part 6 of that Act.

In the case of work to be done by the holder of an owner-builder permit under that Act:

- the name and permit number of the owner-builder.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

### Roads - Preconstruction Requirements

- 9 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.

## Site Requirements

- 10 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.
- 11 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
  - be a standard flushing toilet connected to a public sewer system; or
  - have an on-site effluent disposal system approved under the Local Government Act 1993, or be a temporary chemical closet approved under the Local Government Act 1993, supplied by a suitably licensed contractor.
- 12 Prior to works associated with the development commencing, a suitable metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) is to be provided upon the development site for the duration of the construction phase of the development in accordance with the requirements of Development Control Plan 2005, Chapter 100 – Quality Housing. The required waste receptacle is to be suitably emptied at appropriate times during the construction phase of the development.
- 13 Prior to works associated with the development commencing, a suitable hoarding or safety fence between the work site and the public place is to be provided in accordance with Work Cover Authority requirements. The required hoarding/fencing is to remain in place during the construction phase of the development. Should the hoarding/fencing be required to be provided within the road reserve area, approval from Council under the Roads Act as the Roads Authority is required to be obtained prior to its erection.
- 14 Prior to works associated with the development commencing, it is the builder's responsibility to confirm the location and depth of the sewer main and connection point in relation to the floor level, to ensure that appropriate connection to the sewer can be achieved.
- 15 Prior to works associated with the development commencing, where any excavation is proposed in proximity to existing gas and/or electricity networks, the developer is advised to notify 'Dial Before You Dig' of the time and place of work no more than thirty (30) days before the work commences. The developer must satisfy any requirements as set by the network operators in carrying out excavation works.

## During Construction Works:

*The following conditions must be satisfied during construction works.*

### Approved Plans

- 16 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

### Earthworks and Haulage - Construction Requirements

- 17 All earthworks are to be limited to the area as indicated within the approved development plans. Any additional earthworks and the construction of associated retaining structures outside of the nominated areas, requires separate approval.

### Erosion and Sediment Control - Construction Requirements

- 18 Sand and other materials associated with the construction of the development that could potentially be washed off the site during rain periods, are to be stored behind a suitable sediment control barrier.
- 19 All sediment and erosion control devices provided with respect to the development are to be periodically cleaned and maintained in an effective state for the duration of works. On the spot fines for non-compliance with this requirement may be issued under the provisions of the *Protection of Environment Operations Act, 2000*.

### Plumbing and Drainage - Construction Requirements

- 20 Council as the Water Supply Authority, under the provisions of the Water Management Act, or in unsewered areas where an onsite sewage management facility is to be installed, is to be notified to undertake inspections of the internal drainage lines, (prior to the pouring of the concrete slab), and external drainage lines inclusive of sewer junction connection, prior to the backfilling of the trenches. These inspections can be arranged by telephoning Council's Customer Contact Centre on (02) 4350 5555 a minimum of twenty-four (24) hours prior to the required time for the inspection. Please note that all drainage inspection fees are to be paid to Council prior to plumbing and drainage works associated with the development commencing.

### Site Requirements

- 21 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
- 22 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.

- 23 During the construction phase of the development, downpipes and the associated stormwater disposal system is to suitably connected to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run off. The Principal Certifying Authority for the development will not issue a compliance certificate for framing unless connection of the site stormwater (or temporary system) has occurred.

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

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

### **BASIX Requirements**

- 24 Prior to the issue of an Occupation Certificate, pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is mandatory that all the commitments listed in the BASIX Certificate applicable to the development are fulfilled.

### **Building Code of Australia – Compliance Requirements**

- 25 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

### **Dilapidation Rectification Requirements**

- 26 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.

### **Landscaping Requirements**

- 27 Prior to the issue of an Occupation Certificate, the front setback area of the allotment disturbed during construction of the development, is to be suitably turfed in accordance with the provisions of Council's Development Control Plan 2005, Chapter 100 - *Quality Housing*. Sediment Control fencing erected on the site in order to control sediment leaving the development site must remain in place until such time as the required turf is established.

### **Plumbing and Drainage - Compliance Requirements**

- 28 Prior to the issue of an Occupation Certificate, the hot water installation is to be suitably tempered in order that hot water not exceeding 50 degrees Celsius is provided at the outlet of the sanitary fixtures used primarily for personal hygiene purposes. Compliance with this temperature limit is optional for kitchen sinks and laundry tubs under the provisions of AS/NZS 3500, Part 4.2 C1.1.6.2.

- 29 Prior to the issue of an Occupation Certificate, the required rainwater tank is to be provided in the location as detailed within the approved development plans with suitable plumbing connections provided to collect rainwater from the roof area as detailed within the BASIX Certificate applicable to the development. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500 and shall be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all fixtures as detailed within the BASIX Certificate applicable to the development. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%.
- 30 Prior to the issue of an Occupation Certificate, the surcharge gully provided with respect to the development, must be located a minimum of 150mm below floor level and 75mm above the surrounding finished ground level.

#### **Vehicle Access and Parking – Compliance Requirements**

- 31 Prior to the issue of an Occupation Certificate, a suitable non-slip finish driveway access with a decorative finish, is to be constructed in the location as shown on the approved development plans.

#### **Water and Sewer Services/Infrastructure – Compliance Requirements**

- 32 The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

### **Ongoing Operation:**

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

No Conditions

## **SCHEDULE OF CONTRIBUTIONS**

<b>Sec 94</b>	<b>\$5,965.15</b>
<b>Wyong North Area Sewer DSP</b>	<b>\$1,743.55</b>
<b>Wyong Urban North Water DSP</b>	<b>\$1,383.05</b>



#### **4.8 DA/717/2012 Proposed Secondary Dwelling at Wyong**

---

TRIM REFERENCE: DA/717/2012 - D03190968

MANAGER: Jamie Loader, Manager Building Certification and Health

AUTHOR: Lachlan Anderson; Health and Building Surveyor

#### **SUMMARY**

An application has been received for a two bedroom secondary dwelling at 49 Alison Road, Wyong under the provisions of the State Environmental Planning Policy (SEPP) Affordable Housing 2009. 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) 1979 with the issues requiring attention and consideration being addressed in the report.

As this application was lodged prior to 1 September 2012, the applicant has requested that Council waive the Section 94 contributions in accordance with Council's resolution of the 8 February 2012.

<b>Applicant</b>	Mr. Long Keang Tang
<b>Owner</b>	Mr. Long Keang Tang
<b>Application No</b>	DA/717/2012
<b>Description of Land</b>	Lot 2 DP 604561, No 49 Alison Road, Wyong
<b>Proposed Development</b>	Detached secondary dwelling.
<b>Site Area</b>	839.4m <sup>2</sup>
<b>Zoning</b>	2C Medium Density Residential
<b>Existing Use</b>	Residential
<b>Estimated Value</b>	\$20,000

#### **RECOMMENDATION**

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

#### **PRECIS**

- The site is zoned 2C Medium Density Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP 1991).
- The secondary dwelling generally complies with the standards of Part 2- Division 2 of SEPP Affordable Housing 2009.

## INTRODUCTION

### The Site

The property currently contains a 1960's weatherboard dwelling and the secondary dwelling is proposed to be sited at the rear of the allotment behind the existing dwelling. The adjoining properties consist of townhouses to the south and a brick veneer dwelling to the north. The site is provided with kerb and guttering to the Alison Road frontage.



Location- 49 Alison Road, Wyong.

Aerial photograph of the allotment where the **proposed secondary dwelling** is to be constructed.



Pic 1- View of allotment from Alison Road, Wyong.



Pic 2- Rear of existing dwelling / location of proposed secondary dwelling

#### **4.8 DA/717/2012 Proposed Secondary Dwelling at Wyong (contd)**

---

The application has been referred to Council for determination solely based upon the Council resolution of 8 February 2012, (in particular Resolution 6) which states:

*Council at its meeting held on 8 February 2012 Resolved unanimously on the motion of Councillor Best and seconded by Councillor Symington:*

- “1 That Council reaffirm its commitment to the principles of affordable housing and its importance in assisting a broad cross section of our community and recognise that Section 94 contributions may be prohibitive to many affordable housing projects.*
- 2 That Council note the decision of Gosford City Council to assist in facilitating affordable housing through the trial waiver of Section 94 contributions for granny flats.*
- 3 That Council support this initiative thereby establishing a regional approach to affordable housing.*
- 4 That Council also waive Section 94 contributions for granny flats on a trial basis till September 2012, concurrent with Gosford City Council and that the outcome of this be reported to Council.*
- 5 That Council receive the report in a timeframe for inclusion in the 2012-13 Annual Plan.*
- 6 That Council implement the trial by way of reporting those relevant development applications to Council for determination.”*

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

AGAINST: NIL

Due to the application being lodged prior to 1 September 2012, the applicant has requested that the Section 94 contributions be waived as per item No 4 of the abovementioned motion.

The approval of the secondary dwelling would not create any adverse impact on adjoining properties. As such, it is recommended that the application be approved subject to conditions.

#### **VARIATIONS TO POLICIES**

The proposal is fully compliant with the standards for secondary dwellings contained within the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009.

#### **HISTORY**

A single storey weatherboard dwelling was approved and constructed in 1966 which currently exists on the site. There is no other history relevant to this application.

**PERMISSIBILITY**

The subject site is zoned 2C Medium Density Residential zone under the WLEP 1991. The proposal is permissible with consent and complies with the objectives of the zone as follows:

- “(a) to cater primarily for residential flat buildings generally not exceeding a height of 3 storeys (except as otherwise provided for by clause 42B), and*
- (b) to provide for other uses which:*
  - (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 residential uses, and*
- (c) to provide home-based employment where such will not:*
  - (i) involve exposure to view from any public place of any unsightly matter, or raw material, equipment, machinery, product or stored finished goods, or*
  - (ii) have a material adverse impact on residents.”*

**RELEVANT STATE/COUNCIL POLICIES AND PLANS**

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

- SEPP (Affordable Rental Housing) 2009 (As Guidelines)
- WLEP 1991
- Wyong Council DCP Chapters 14 ‘Tree management’
- Wyong Council DCP Chapters 99 ‘Building Lines’
- Wyong Council DCP Chapters 100 ‘Quality Housing’

**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 the SEPP (Affordable Rental Housing) 2009, as guidelines, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information.

#### **4.8 DA/717/2012 Proposed Secondary Dwelling at Wyong (contd)**

---

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

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

The property is zoned 2C Medium Density Residential zone and the secondary dwelling is consistent with the provisions contained within the WLEP 1991.

###### **State Environmental Planning Policy (Affordable Rental Housing) 2009 (Guideline)**

SEPP (Affordable Rental Housing) 2009 permits secondary dwellings up to a maximum floor area of 60m<sup>2</sup>. The proposed secondary dwelling has a floor area of 60m<sup>2</sup>. Under these circumstances the development is fully compliant with the standards of this policy.

###### **Development Control Plan 2005 Chapter 99 – Building Lines**

Clause 3.1 of DCP 2005 Chapter 99 – Building Lines requires a side and rear setback of 900mm to a boundary and the proposal is fully compliant. The proposed secondary dwelling is also fully compliant with the front building line setback to Alison Rd.

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

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

The proposed secondary dwelling is consistent with the scale and character of the local area of Wyong. The scale, bulk, height, massing and choice of materials and finishes for the proposed secondary dwelling is considered appropriate to the local context.

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

Access to the site is provided from Alison Road, Wyong. The SEPP (Affordable Rental Housing) 2009 does not require additional parking or access to be provided for the secondary dwelling.

###### ***Any effect on privacy, view loss and overshadowing***

An assessment of potential over viewing, privacy and view sharing has been undertaken. It is concluded that the construction of the secondary dwelling would not be detrimental to the amenity of the adjoining properties or those within the nexus of the development.

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

Existing services for the site are adequate for the proposed development.

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

A BASIX certificate has been submitted with the application and the proposal involves the use of water saving fixtures and a water tank of a minimum 3000 litre capacity. Connection of the tank to the toilet and external tap will contribute to the conservation of water.

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

The proposal does not involve any effect on the conservation of soils or acid sulphate soils.

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

There is no impact upon flora or fauna with this development.

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

A waste management plan has been submitted with the development application and provides details of how waste would be managed during construction. The occupants of the secondary dwelling would utilise the waste collection services associated with the primary dwelling.

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

A BASIX certificate has been issued as part of the development application.

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

A minimal amount of noise and vibration would be created during the construction phase. A condition would be placed on the consent restricting the hours that construction work can take place.

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

There are not any risks from natural hazards.

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

During the construction of the works sediment fencing would be installed and construction noise would be minimised via conditions of consent.

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

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

The proposal meets the objectives of the zone and generally complies with the criteria contained within the SEPP (Affordable Rental Housing) 2009.

The development is within a residential area that contains a number of single and multiple dwelling developments. The secondary dwelling would not have any significant impact on the surrounding area and promotes an orderly and economic use of the land.

It is considered the effect on the environment would be minimal and the proposed dwelling would complement the existing streetscape of the locality.

#### **4.8 DA/717/2012 Proposed Secondary Dwelling at Wyong (contd)**

---

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

The site is considered appropriate for 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 with no submissions being received.

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

There are no submissions from public authorities.

##### **OTHER MATTERS FOR CONSIDERATION**

The property is within Wyong S94 contribution plan created under the provisions of Section 94 of The EP&A Act 1979. Section 94 contributions are applicable to secondary dwellings under this plan as defined under the Affordable Housing SEPP.

Under the contribution plan the secondary dwelling would generate Section 94 contributions totalling **\$5,965.15**.

##### **CONCLUSION**

The development application for a proposed secondary dwelling meets the standards of the relevant chapters of Council's DCP 2005 and generally meets the requirements under SEPP (Affordable Rental Housing) 2009. The application is recommended for approval subject to the attached conditions.

##### **ATTACHMENTS**

- |   |                              |           |           |
|---|------------------------------|-----------|-----------|
| 1 | Draft Conditions of Approval |           | D03186332 |
| 2 | Development Plans (A3 B&W)   | Enclosure | D03191026 |



## PROPOSED APPROVAL CONDITIONS – DA/717/2012

- 1 The development is to be undertaken in accordance with the approved development plans and specifications listed below except as modified by any conditions of consent and any amendments in red made to the approved plans:

Title	Drawing No.	Revision	Date	Drawn By
Proposed Granny Flat	DA-01-DA-04	Rev A	07-Aug-12	KC Designs and Constructions

### Certificates – Application and Approval

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.

### Prior to Release of Construction Certificate:

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

### Contribution Payment Requirements

- 3 Prior to the issue of a Construction Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

### Structural Design Requirements

- 4 Prior to the issue of a Construction Certificate, satisfactory structural plans prepared by a suitably qualified Registered Structural Engineer are to be submitted for the approval of the Accredited Certifier, for the following building elements:
- Reinforced concrete slab.

## Prior to Commencement of Works:

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

### Erosion and Sediment Control Requirements

- 5 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.
- 6 Prior to works associated with the development commencing, an appropriate sign to promote the awareness and importance of the maintenance of on-site sediment control techniques is to be provided on the most prominent sediment fence or erosion control device within the development site, for the duration of the project.

### Home Building Act Requirements

- 7 Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless Council, as the Principal Certifying Authority for the development to which the work relates, has been furnished with the following information:

In the case of work to be done by the holder of a contractor licence under that Act:

- the name and licence number of the contractor; and
- A copy of the Home Owner Warranty Insurance.

In the case of work to be done by the holder of an owner-builder permit under that Act:

- A copy of the Owner Builder's Permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

### Roads - Preconstruction Requirements

- 8 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.

## Site Requirements

- 9 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.
- 10 Prior to works associated with the development commencing, where any excavation is proposed in proximity to existing gas and/or electricity networks, the developer is advised to notify 'Dial Before You Dig' of the time and place of work no more than thirty (30) days before the work commences. The developer must satisfy any requirements as set by the network operators in carrying out excavation works.

## During Construction Works:

*The following conditions must be satisfied during construction works.*

### Approved Plans

- 11 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

### Ecology/Trees - Construction Requirements

- 12 Trees marked in red on the approved plans and any other trees not specifically indicated for removal on the approved plans, are to be retained and not felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed. Trees within an access way or driveway approved as part of this consent can be removed, unless the approved plan or conditions of consent show otherwise.
- 13 No tree (or other vegetation) other than those specifically notated on the approved plan(s) as "tree to be removed" shall be felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed or removed, without the further written consent of the Consent Authority.

### Erosion and Sediment Control - Construction Requirements

- 14 Sand and other materials associated with the construction of the development that could potentially be washed off the site during rain periods, are to be stored behind a suitable sediment control barrier.
- 15 All sediment and erosion control devices provided with respect to the development are to be periodically cleaned and maintained in an effective state for the duration of works. On the spot fines for non-compliance with this requirement may be issued under the provisions of the *Protection of Environment Operations Act, 2000*.

### **Plumbing and Drainage - Construction Requirements**

- 16 Council as the Water Supply Authority, under the provisions of the Water Management Act, or in unsewered areas where an onsite sewage management facility is to be installed, is to be notified to undertake inspections of the internal drainage lines, (prior to the pouring of the concrete slab), and external drainage lines inclusive of sewer junction connection, prior to the backfilling of the trenches. These inspections can be arranged by telephoning Council's Customer Contact Centre on (02) 4350 5555 a minimum of twenty-four (24) hours prior to the required time for the inspection. Please note that all drainage inspection fees are to be paid to Council prior to plumbing and drainage works associated with the development commencing.

### **Site Requirements**

- 17 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
- 18 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 19 During the construction phase of the development, downpipes and the associated stormwater disposal system is to be suitably connected to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run off. The Principal Certifying Authority for the development will not issue a compliance certificate for framing unless connection of the site stormwater (or temporary system) has occurred.

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

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

### **BASIX Requirements**

- 20 Prior to the issue of an Occupation Certificate, pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is mandatory that all the commitments listed in the BASIX Certificate applicable to the development are fulfilled.

### **Building Code of Australia – Compliance Requirements**

- 21 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

**Dilapidation Rectification Requirements**

- 22 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.

**Plumbing and Drainage - Compliance Requirements**

- 23 Prior to the issue of an Occupation Certificate, the hot water installation is to be suitably tempered in order that hot water not exceeding 50 degrees Celsius is provided at the outlet of the sanitary fixtures used primarily for personal hygiene purposes. Compliance with this temperature limit is optional for kitchen sinks and laundry tubs under the provisions of AS/NZS 3500, Part 4.2 C1.1.6.2.
- 24 Prior to the issue of an Occupation Certificate, the required rainwater tank is to be provided in the location as detailed within the approved development plans with suitable plumbing connections provided to collect rainwater from the roof area as detailed within the BASIX Certificate applicable to the development. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500 and shall be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all fixtures as detailed within the BASIX Certificate applicable to the development. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%.
- 25 Prior to the issue of an Occupation Certificate, the surcharge gully provided with respect to the development, must be located a minimum of 150mm below floor level and 75mm above the surrounding finished ground level.

**Stormwater – Compliance Requirements**

- 26 Prior to the issue of an Occupation Certificate, stormwater generated from roof areas of the building and any overflows from rain water tanks installed in conjunction with the development, is to be disposed of to the existing stormwater disposal system servicing the allotment.

**Water and Sewer Services/Infrastructure – Compliance Requirements**

- 27 The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

**Ongoing Operation:**

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

No Conditions

## **SCHEDULE OF CONTRIBUTIONS**

<b>Sec 94</b>	<b>\$5,965.15</b>
<b>Wyong North Area Sewer DSP</b>	<b>\$1,743.55</b>
<b>Wyong Urban North Water DSP</b>	<b>\$1,383.05</b>

## **4.9 Draft Contributions Plan for the Warnervale Town Centre**

---

TRIM REFERENCE: F2006/02289 - D03199965

MANAGER: David Jack, Acting Director Land Management

AUTHOR: Martin Johnson; Manager Land Use Planning and Policy Development

### **SUMMARY**

This report provides outcome details of submissions received from the exhibition of the Draft Contributions Plan for the Warnervale Town Centre, and further proposed (by staff) amendments to the draft plan since its' exhibition. The report also raises a number of related issues for which the Department of Planning has a decision making role.

### **RECOMMENDATION**

- 1 That Council adopt the draft Contributions Plan for Warnervale Town Centre with the amendments recommended in this report.**
- 2 That Council request the Minister for Planning & Infrastructure to exempt the Warnervale Town Centre from capping by including the area/plan in Schedule 2 of the Section 94E Direction.**
- 3 That Council request the Minister to reduce the Special Infrastructure Contributions that apply within the Shire in accordance with Government's June announcement.**
- 4 That Council request that the Minister impose the following conditions in the Woolworths Major Project Development:**
  - a) A condition requiring the payment of section 94 contributions prior to the release of the construction certificate in accordance with adopted Contributions Plan.**
  - b) A condition requiring the provision of a civic square that is 2,700m<sup>2</sup> in area without any traversing roads be provided in the vicinity of the proposed civic square and that the land be dedicated to Council.**
  - c) A condition requiring the construction and dedication of the main street (W06) at no cost to Council.**

### **BACKGROUND**

The Central Coast Regional Strategy,(CCRS) prepared by the NSW Department of Planning & Infrastructure (DoPI) has identified Warnervale as a Town Centre, to accommodate future growth within Wyong Shire.

The Warnervale Town Centre (WTC) is generally bound by Sparks Road, Hiawatha Road, Hakone Road and the Sydney Newcastle Railway line. The WTC has a total area of 120 ha of which 14 hectares is zoned for business and 38 hectares is zoned for residential. The land was rezoned by the Minister independently of Council in 2008.

The projected resident population ranges from 3,600 to 4,200 people depending on the density assumptions that are made.

A draft Warnervale Town Centre (WTC) Contributions Plan (Draft Plan) was exhibited for public comment between 21 December 2011 and 1 February 2012 in accordance with the resolution of Council at its Ordinary Meeting of 14 December 2011.

The reporting of exhibition has been delayed pending the adoption of the WTC Development Control Plan (DCP) by the DoPI, which occurred September 2012.

### The Process - Key Milestones

1. The WTC was rezoned by the State Government on **7 November 2008** under SEPP (Major Projects) 2005 (Amendment no. 24) for business and residential use.
2. The DoPI indicated in its letter to Council dated **22 December 2010** that the Minister will include the contributions plan in the \$30,000 cap category in his Direction that applies to Greenfield sites once it has been adopted.
3. The *Draft WTC Development Control Plan* (DCP) was placed on public exhibition between **16 November & 16 December 2011**.
4. The *Draft WTC Contributions Plan (Exhibited Draft Plan)* was exhibited between **21 December 2011 & 1 February 2012**.
5. The adopted DCP came into effect on **7 September 2012**.
6. The DoPI undertook a rezoning amendment for the WTC to ensure consistency with the adopted DCP, which was gazetted by the on **21 September 2012** under SEPP Amendment (Miscellaneous) 2012.

### CURRENT STATUS

The exhibited draft plan has been reviewed and revised in draft form taking into consideration the submissions and the provisions of the adopted DCP.

The DoPI undertook zoning amendments for the WTC recently so that the zonings would be consistent and allow the operation of the adopted DCP.

Unfortunately there were some minor omissions/errors in the zoning amendment. The Department has agreed that some of these minor omissions/errors can be addressed through the Draft Shire Wide LEP process.

Three associated issues have been identified and are brought to Council's attention for consideration of making direct representations to the DoPI .



## 1. Indexing

Pursuant to Section 94E the Minister of Planning & Infrastructure can issue a direction restricting the amount of contributions that can be imposed in development consents.

There is a substantial history to the capping regimes put in place by the former Government which have shifted a number of times. The original \$20,000 per dwelling/allotment cap was first foreshadowed in December 2008 and re-confirmed again June 2010. The Minister's Direction of **17 September 2010** set the structure for the current capping regime, which is broadly based on recognising 3 different development scenarios:

1. A basic \$20,000 per allotment/dwelling cap.
2. A concessional \$30,000 per allotment/dwelling cap for new release areas. For this cap to take precedence over the \$20,000 cap, the Minister needs to issue a new direction, which he does from time to time, to include new approved contributions plan in the "\$30,000 cap" schedule (Schedule 3).
3. No capping for existing contributions plans where more than 25% of the development has already occurred. Again, this exemption only becomes operational when the Minister includes the new approved contributions plan in the "no capping" schedule in the Direction (Schedule 2).

The DoPI indicated in its letter dated 22 December 2010 that the WTC Contributions Plan will be included in the \$30,000 cap per dwelling/allotment category that applies to "green-field" sites once it has been adopted

The current caps are fixed, - there is no provision for indexing.

The Minister's Direction that first contained the "\$30,000 cap" schedule for new release areas was issued on 17 September 2010. The indexing of this \$30,000 cap by the consumer price index (CPI) to September 2012 means the real value of this cap should now be \$31,287.

### Shire Wide Contributions Plan

The Shire Wide Contribution Plan requires a total contribution of \$974 dwelling/allotment. This contribution can be collected until indexing cause the combined WTC and Shire Contribution to exceed the \$30,000 cap.

### Implications of No Indexing

1. The combined contributions under the revised draft plan for the WTC and Shire Wide Contribution is currently \$ 29,588 and will likely exceed the \$30,000 cap within a year where indexed assuming a 3% annual CPI.

- 2 A rigid \$30,000 cap will mean over the long term Council will be left with a shortfall to fund projects, as the real value of the cap reduces with inflation over time. It is difficult to predict the shortfall because of the sporadic nature of expenditure and contribution receipts. There will however be a \$15M shortfall in a \$67M works schedule in today's dollars under the following assumptions: 3% inflation; 20 year completion; steady rate of expenditure; and steady rate of contribution receipts. This represents a 22% shortfall.

### Options

There would appear to be two options open to Council for secure the indexing of contributions over the cap: -

1. Requesting the Minister to include the Draft WTC Contributions Plan in the "no cap" schedule without referral to IPART for review, rather than the "\$30,000 cap schedule.

This can be justified based on the considerable common infrastructure and facilities that have been levied for under "Section 94 Contributions Plan No. 7A "Drainage, Water Quality, Open Space, Community Facilities & Roads – Warnervale District" (*Warnervale Plan*). This contributions plan is exempt from the contribution cap under the Minister's current S94E Direction.

The infrastructure and facilities within the *Warnervale Plan* that are apportioned beyond the plan area include existing playing fields, proposed district playing fields, proposed recreation centre and proposed knowledge centre. Development within the WTC will contribute to these common facilities.

Although a separate contribution for roads is proposed to be collected under the revised draft WTC contributions plan, it is based on future traffic generation across the Greater Warnervale District, for which costs have long been apportioned to the WTC.

2. Request the Minister to include the Draft WTC Contributions Plan in the \$30,000 cap schedule as offered, but request that new provisions be adopted that allow for the indexing of contributions to exceed this cap.

The preferred option is Option 1, as it can be implemented quickly with the existing policy framework for contribution plans.

## **2. State Infrastructure Contributions**

A SIC was introduced in October 2008 for residential development with the WTC. Council is required to impose a contribution of \$140,000 per ha of residential use.

The Government announced in June 2012 that it would be discounting the rate for all SIC by half. No action has been taken to amend the WTC SIC or the others that apply within the Shire in accordance with this policy position. Advice from the DoPI is that this will be undertaken early next year.

### 3. Woolworths Application

An amendment to the Woolworths Major Project Application has been lodged and is currently being assessed by the DoPI. While there are a range of issues that Council is pursuing, two issues are directly relevant to the Contributions Plan.

Commitment to fund infrastructure – The Woolworths application does not adequately address the draft Contributions Plan for the WTC in its statement of commitments.

The revised Woolworths application proposes that the proponent will “*undertake works in lieu of monetary contributions*” to the value of \$8.4 M. These works are largely outside the scope of the Draft Contributions Plan and include works that would normally be borne by the developer. The works that are outside the scope of the draft Contributions Plan includes the provision of public art, commuter car parking, W01 – access Road south of W06 (Main Street), W06 Main Street and the SW detention system.

The commuter car parking is not a Council requirement and is evidently a facility that has been negotiated by the DoPI.

The Entry Road (W01) up to Main Road (W06) is being funded under a tripartite agreement between Woolworths, Landcom and Wyong Shire Council and is not a work under the Draft Contributions Plan, with the exception of the half road construction along Nikko Road

The only costs in the “*Response to Submissions*” document that relate to the items in the Draft Contributions Plan are the civic square, traffic signals i11, & i13, half road construction along Nikko Road and off road cycleway within the road reserve (W05) on the southern side of the Woolworths Development.

The contributions for the Woolworths Development under the Draft Plan totals \$23.67M, of which \$21M are for road & intersection works both within the WTC and the Greater Warnervale District based on traffic generation. There is approximately \$3.28M of offsets available for contributions works if undertaken by Woolworths as part of its Development within its site or in the immediate vicinity.

Failure of the DoPI to impose these contributions in the consent for the development will seriously impact on the ability of Council to deliver the works under the Draft Contributions Plan, including:

- o The \$190M program of road works planned for the Greater Warnervale District to accommodate the projected traffic generation.
- o The programs to provide open Space, Community Facilities and the Porters Creek Stormwater Harvesting Scheme.

It is recommended that Council advise the Department that it is not prepared to accept works in lieu of development contributions required under the Draft Contributions Plan.

Civic Square – The Draft DCP provided that the Civic Square would have an area of 2,700m<sup>2</sup> with the adopted DCP amending this to “up to 2,700m<sup>2</sup>”. Notwithstanding this requirement, a number of the figures in both the Draft and adopted DCPs illustrate the “square” as two geometric squares on either side of the main street each having an area of approximately 2,300m<sup>2</sup> (total 4,600m<sup>2</sup>).

The original Woolworths proposal did not specify the area of the proposed civic square however it was clear, that it was substantially less than the requirement of the Draft DCP that existed at the time. Council’s submission raised this as a matter of concern.

The amended proposal now being assessed has provided details of the Civic Square, which comprises a total area according to the application document of “*approximately 2,200 m<sup>2</sup>, and 1,825m<sup>2</sup> excluding the road reserve*”. This means that the “square” comprises two separate areas of approximately 800m<sup>2</sup> on the southern side of the Main Road (W06) that effectively serves as a forecourt to the shopping centre entrance and approximately 1,000m<sup>2</sup> on the northern side surrounded by car parking.

The amendment application has provided a document (Appendix O – Public Domain Analysis) justifying the size of the square relying on the following examples:

Italian Forum – Leichhardt	1,400m <sup>2</sup>
Kogarah Town Centre	1,200m <sup>2</sup>
Forum, St Leonards	1,600m <sup>2</sup>
Customs House Square – Circular Quay	2,200m <sup>2</sup>
Berry Square, North Sydney	900m <sup>2</sup>
Railway Square, Central Station	2,100m <sup>2</sup>
Rouse Hill Town Centre	1,500m <sup>2</sup>
Orion Springfield Town Centre, Queensland	1,100m <sup>2</sup>

It is considered that all of these examples bear little similarity to the Warnervale Town Centre. It is also noteworthy that none of the examples have a traversing road and most are within existing urban areas where there are other open space areas and/or future opportunities for road closures to facilitate pedestrian movement and congregation.

By way of note the ‘Beehive’ at Erina Fair is approximately 3,000m<sup>2</sup> (53m x 58m) excluding the forecourts to the Cinema and Ice Skating Rink (approx 1,000m<sup>2</sup>), the undercroft (approx 600m<sup>2</sup>) and the colonnade (approx 300m<sup>2</sup>)

The contribution plan provides that the Civic Square will be 2,700m<sup>2</sup> in area and will be purchased and embellished under the Contributions Plan. Woolworths appears to be resistant to the civic square being transferred into public ownership and it remains to be seen whether the DoPI will require the enlargement to something that could properly be called and function as a ‘civic square’.

It is proposed to retain the 2,700m<sup>2</sup> Civic Square as a contribution item in the interim, but this issue may need revisiting subject to the final Woolworths approval and/or Council’s consideration of the option for compulsory purchase of either the approved square or a square in an alternative location.

### Submissions to the Exhibited Plan

Council received the six submissions to the exhibited Draft WTC Contributions Plan.

1. Woolworths Ltd
2. Ian Adams of Paradigm on behalf of Stannic Securities Pty Ltd
3. Eric Stammer for Yeramba Estate
4. Peter Andrews & Associates on behalf of Landcom with supplementary information from WT Partners
5. NSW Department of Transport, Roads & Maritime Service
6. Department of Planning & Infrastructure

An evaluation table of all the submissions in detail was used to systematically address all the issues raised. This table is attached (Attachment 1) for Council's information.

The proposed revised draft plan has been prepared in accordance with the recommended actions in this evaluation table.

### **PROPOSAL**

It is proposed that the exhibited draft plan be amended in accordance with the changes below and then adopted as the final plan. Detailed explanation for the proposed major changes is provided in the Submissions Evaluation Table (Attachment 1).

A copy of the proposed final Draft Plan is attached (Attachment 2).

The proposed amendments reduce the contribution rate from \$29,712 to \$28,586 per residential allotment/dwelling and thus will remain under the Minister's \$30,000 cap for "green-field" developments.

### **Proposed Changes in Final Plan**

1. A reduction in the Net Developable Area (NDA) that reduces the projected population from 3,967 to 3,600 and the projected dwellings from 1,538 to 1,400, to account for road buffers and the quarantine of a further 2.3 ha of business zoned land exclusively for non-residential uses. This means that 4.7 ha of the total 14 ha of land zoned Business will be quarantined from any residential development. This includes the 2.4 ha Woolworths site on which no residential development is currently proposed.
2. The reduction of the proportion of open space / community facility cost attributable to non-residential development from 20% to 10%.
3. The change in the way the open space / community facility contributions are applied to non-residential uses from a square metre of GFA basis to a daily vehicle trip basis. This change will improve the nexus between development and the purpose for which the contribution is levied. The same area of bulky goods retail compared to normal retail use will now pay less.
4. The reduction in the land value for Hill Top Park from \$3.6 M to \$1.7 M in accordance with a revaluation that discounts the 2.6 ha of the total 4.53 ha that was formerly use for landfill.

5. The reduction from 100% to 47.4% of the land & embellishment cost for Hill Top Park that is attributable to the WTC based on a population apportionment. The balance will be paid for by development in Precinct 7A located south of Sparks Road.
6. The reduction of the district sporting fields from a 20 ha site to a 12 ha site and the reduction from 40% to 15.3% of the land & embellishment costs attributable to the WTC based on a population apportionment. Contributions have been collected for this development for many years from development in Wadalba, Woongarra & Hamlyn Terrace (WWAHT). The balance will be collected from development in Precinct 7A.
7. The inclusion of 15.3% recoupment costs for the existing sporting fields in Wadalba, Woongarra & Hamlyn Terrace (WWAHT) based on a population apportionment.
8. The deletion of compensation for the central drainage corridor in accordance with Council policy adopted as part of the "Strategy for Reducing S94 Credits". A condition of consent for the development of this land will require that it be dedicated at no cost to Council. The alternative is for a condition requiring the developer to maintain the environmental values and drainage functions in accordance with a management plan in perpetuity
9. The reduction from 30% to 19.3 % of the land & embellishment cost for the proposed Knowledge Centre that is attributable to the WTC based on a population apportionment. Contributions have been collected for this development for many years from development in Wadalba, Woongarra & Hamlyn Terrace (WWAHT). The balance will be collected from development in Precinct 7A.
10. The inclusion of the apportioned cost of providing an indoor recreation centre (aquatic facilities) in the Greater Warnervale District. The WTC is responsible for paying 10.3% of the total costs based on a population catchment of 35,000. Contributions have been collected for this development for many years from development in Wadalba, Woongarra & Hamlyn Terrace (WWAHT). The balance will be collected from development in Precinct 7A and future residential developments within the Greater Warnervale District.
11. The general revision of road & intersection costs, with indexing and the adjustment to apportionment based on a review of traffic generations from the various road catchments within the Greater Warnervale District.
12. The increase in the cost of the Hakone Road railway overpass from \$15M to \$21M to account for the increased cost of the western ramp, of which 45% is attributable to the WTC.
13. The correction of the costs for intersections 14 & 15 that were incorrect by an order of 1000.
14. The correction of the land valuation for stormwater treatment land located on the Yeramba land (SE2) of \$50 per m<sup>2</sup>. The draft plan incorrectly showed a value of \$80 m<sup>2</sup> that actually applies to a different site.
15. The inclusion of the updated Porters Creek Stormwater Harvesting Scheme costs. The cost of the scheme for the WTC has increased from \$6.6M to \$7.8M.

16. The redefinition of occupancy rates having regard to the recently release 2011 ABS Housing & Population Census.
17. A range of minor typographical, drafting amendment and format changes.

Proposed Additional Actions

1. *Request the Minister for Planning & Infrastructure to exempt the Warnervale Town Centre from capping by including the area/plan in Schedule 2 of the Section 94E Direction.*
2. *Request the Minister to reduce the Special Infrastructure Contributions that apply within the Shire in accordance with Government's June announcement.*
3. *Request that the Minister impose the following conditions in the Woolworths Major Project Development:*
  - a. *A condition requiring the payment of section 94 contributions prior to the release of the construction certificate in accordance with adopted Contributions Plan*
  - b. *A condition requiring the provision of a civic square that is 2,700m<sup>2</sup> in area without any traversing roads be provided in the vicinity of the proposed civic square and that the land be dedicated to Council.*
  - c. *A condition requiring the construction and dedication of the main street (W06) at no cost to Council*

**STRATEGIC LINKS**

**Annual Plan**

**Contribution of Proposal to the Principal Activity**

The Revised Draft Contributions Plan for Warnervale Town Centre will enable the future rolling works program to be delivered.

**Links to Community Strategic Plan**

<b>Priority Objective</b>	<b>How the proposal contributes or links to the Priority Objectives in Community Strategic Plan</b>
<b>Communities</b> - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Section 94 funds enable Council to provide vibrant, caring and connected communities.
<b>Travel</b> - There will be ease of travel within the Shire, and to other regional centres and cities. Travel will be available at all hours and will be safe, clean and affordable.	Section 94 funds will enable Council to upgrade roads and provide new roads to facilitate ease of travel within the Shire.
<b>Facilities and Services</b> - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	Section 94 funds enable Council to provide such facilities and services.

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Community Strategic Plan</i>
<b>Education</b> - The community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life.	Section 94 funds enable Council to provide facilities that have an education function.
<b>Natural Areas</b> - Areas of natural value in public and private ownership will be enhanced and retained to a high level in the context of ongoing development.	Section 94 funds enable Council to enhance and retain natural areas in the Shire.

### Financial Implications

The Revised Draft Contributions Plan for Warnervale Town Centre will enable the future rolling works program to be delivered provided that the Minister for DoPI permits the indexing of contributions above the \$30,000 cap and imposes contributions on the Woolworths Major Project Development in accordance with the plan. The financial implication of these issues has been dealt with in the body of the report.

### Principles of Sustainability

The adoption of the contributions plan will provide financial means to address the impacts of development, especially in respect of drainage and water quality.

### CONSULTATION

The community has been consulted by way of the public exhibition of the Plan.

### CORPORATE RISKS

The revised Draft Contributions Plan for WTC will reduce the risk of Council collecting insufficient funds for future identified work programs subject to the Minister for DoPI acceding to the recommended requests.

### CONCLUSION

The revised Final Draft Plan has been formulated after consideration of the public submissions and the adopted DCP and is now in a form that can be adopted by Council.

There are a range of issues that need to be raised with the DoPI as detailed in the body of this report.

### ATTACHMENTS

- |   |  |           |           |
|---|--|-----------|-----------|
| 1 | Revised Draft Plan                       | Enclosure | D03199764 |
| 2 | 2012 11 27 WTC Evaluation of Submissions | Enclosure | D03206365 |



#### **4.10 Public Exhibition of Draft Wyong Local Environmental Plan 2012, Draft Settlement Strategy and Draft Wyong Development Control Plan 2012**

---

TRIM REFERENCE: F2008/00774-05 - D03205291

MANAGER: Martin Johnson, Acting Manager Sustainability

AUTHOR: Kathryn Heintz; Strategic Planner

#### **SUMMARY**

This report seeks Council's endorsement of draft Wyong Local Environmental Plan (LEP) 2012 and the draft Settlement Strategy for public exhibition following receipt of Section 65 certification from the NSW Department of Planning & Infrastructure (DP&I).

#### **RECOMMENDATION**

- 1 That Council endorse the draft Wyong LEP 2012 and supporting documentation, as certified (Attachment 1), to be placed on public exhibition for a minimum of 6 weeks pursuant to Section 66 of the Environmental Planning and Assessment Act 1979 (EP&A Act), commencing 9 January, 2013.**
- 2 That Council endorse the community engagement strategy for the public exhibition of the certified draft Wyong LEP 2012 set out in this report.**
- 3 That Council receive a further report on the draft Wyong LEP 2012 and supporting documentation, under the provisions of Section 68 of the EP&A Act, following public exhibition, and prior to forwarding to the Department of Planning & Infrastructure for the Minister's consideration, under section 68 of the EP&A Act.**

#### **BACKGROUND**

Council endorsed the preparation of the draft Wyong LEP 2012 and draft Settlement Strategy in March 2009. In December 2011, these documents were provided to public authorities and agencies for comment under Section 62 of the EP&A Act, and in this same month Council also authorised the General Manager to submit the draft Wyong LEP 2012 and supporting documentation to the DP&I, requesting a Section 65 Certificate to enable these documents to be placed on public exhibition.

Council submitted all relevant documentation to DP&I (Oct. 26 2012) and formally requested that DP&I issue a Section 65 certificate. A conditional certificate was issued to Council (Nov 28<sup>th</sup> 2012) and will be publicly exhibited with the draft Wyong LEP 2012. Council's permission to exhibiting the Plan is conditional upon the following key changes to the maps accompanying draft Wyong LEP 2012:-

- (a) Change zoning of the proposed rural-residential area north of Sandra Street, Jilliby from R5 Large Lot Residential to a zone that is equivalent to its current zoning under Wyong LEP 1991.

**4.10 Public Exhibition of Draft Wyong Local Environmental Plan 2012, Draft Settlement Strategy and Draft Wyong Development Control Plan 2012 (contd)**

---

- (b) Change zoning of the proposed new RU6 Transition sites that are outside of the North Wyong Shire Structure Plan area to a zone that is equivalent to its current zoning under Wyong LEP 1991.
- (c) Change zoning of the proposed Warnervale Town Centre to align with the adopted State DCP for this site.
- (d) Identify a height limit for all mapped key sites on the Height of Building maps and a maximum height limit that can be achieved for each site through application of Clause 7.8 on the Key Sites maps.

Due to the time required to make these changes, and the close proximity to the Christmas - New Year period, the earliest practical date for commencing exhibition of the draft Wyong LEP 2012 is 9<sup>th</sup> January 2013.

It is noted that a formal legal Opinion of the draft Wyong LEP 2012 has not been issued by Parliamentary Counsel and DP&I has had limited time to review the draft plan. As a result, it will be made clear to the public during exhibition that the draft Wyong LEP 2012 could change after public exhibition due to legal drafting requirements as well as to address issues raised during the exhibition period.

It is also noted that DP&I would like to work further with Council on some aspects of the draft Settlement Strategy, including the rural residential areas, the proposed airport, out of centres commercial development and consistency with s.117 directions, including mine subsidence. It is anticipated that once Council adopts a final Settlement Strategy this will be considered for endorsement by DP&I.

**PUBLIC EXHIBITION PACKAGE**

The public exhibition package for the draft Wyong LEP 2012 will include the following supporting documents:

- (a) Draft Wyong LEP 2012
- (b) Section 65 Certificate and covering letter from DP&I
- (c) Plain English LEP
- (d) Land Use Matrices
- (e) Mapping
- (f) Section 64 Report - Report on the Draft SI LEP
- (g) SEPPs, REPs, Section 117(2) Directions and LEP Practice Notes
- (h) Intent of Additional Local Provisions
- (i) Environmental Management Framework
- (j) Non-Standard Zone Conversions
- (k) Council-owned Land Zone Review
- (l) Anomalies and Minor Amendments
- (m) Section 62 Submission Summary
- (n) Land Reclassification Discussion Paper
- (o) Draft Settlement Strategy
- (p) Draft Wyong Development Control Plan 2012.

**COMMUNITY ENGAGEMENT STRATEGY**

The EP&A Act and associated Regulation requires Council to publicly exhibit the draft Wyong LEP 2012 for a minimum period of 28 days. It is proposed that the draft Wyong LEP 2012 will be exhibited for a minimum period of six weeks, from 9 January 2013 – 20 February 2013, to ensure that all stakeholders have adequate time to consider the contents of the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012, and supporting documentation.

A community engagement strategy has been developed to publicise the draft Wyong LEP 2012 exhibition and facilitate community discussion and feedback. The following community engagement initiatives (amongst others) are being utilised during public exhibition:-

- A dedicated exhibition webpage providing access to all documentation relating to the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012, including maps, written instrument, background reports and relevant statutory documents.
- Press conference to be held in the week commencing 7 January 2013, to launch the exhibition period and encourage increased media interest and coverage of the public exhibition of these plans.
- Weekly advertising in local newspapers and on social networking sites throughout the exhibition period.
- Advertising on local radio for the first 2 weeks and final 2 weeks of the exhibition period.
- Weekly media releases on different focus areas throughout the exhibition period.
- Provision of information stations, containing copies of the public exhibition package (listed above), will be located at the following locations and will be available to view during normal opening hours between 9 January 2013 and 20 February 2013 at::
  - Council’s Civic Centre – Hely Street, Wyong;
  - Tuggerah Library – Westfield Shopping Centre, Tuggerah;
  - Lake Haven Library – Lake Haven Shopping Centre, Lake Haven;
  - Toukley Library – Corner of Main Road and Victoria Avenue, Toukley;
  - Bateau Bay Library – Bateau Bay Square Shopping Centre, Bateau Bay;
  - The Entrance Library – 211a The Entrance Rd, The Entrance.
- Targeted consultation with public authorities and agencies.
- Planning staff will be available to discuss the plans at a set time every week throughout the exhibition period, at the following locations:

<b>Where</b>	<b>When</b>
Lake Haven Library – Lake Haven Shopping Centre, Lake Haven	Tuesdays between 2pm-4pm
Tuggerah Library – Westfield Shopping Centre, Tuggerah	Thursdays between 2pm-4pm
Council’s Civic Centre – Hely Street, Wyong	Wednesdays between 1pm-4pm

- Dates and times that staff will be available will be advertised in local newspapers, media releases, social networking sites and Council’s website.
- In addition, specific sessions are planned to consult with the community on the proposed reclassification of Council-owned lands given the special interest that is anticipated. Public Information Sessions are to be held at the following locations:

<b>Where</b>	<b>When</b>
Wyong Community Centre Complex – Alison Road, Wyong	Week commencing 28 January 2013
Kanwal Community Hall – 27-33 Pearce Road, Kanwal	Week commencing 28 January 2013
Doyalson RSL – Pacific Highway, Doyalson	Week commencing 4 February 2013
Bateau Bay Community Hall – Bateau Bay Rd, Bateau Bay	Week commencing 4 February 2013

- Specific dates and times for these public information sessions will be advertised in local newspapers, media releases, social networking sites and Council's website.
- Further detail in relation to the communication strategy for the land reclassification proposals is attached to this report.

## **CONCLUSION**

Wyong Shire Council's current Local Environmental Plan (Wyong LEP 1991) was established nearly twenty two years ago and is outdated.

The NSW Government recognised that many local Councils needed to modernise and rationalise these plans by establishing an incentive program. The ultimate aim of the program is to have one LEP for each local government area, using standard land use zones and land use definitions.

Draft Wyong LEP 2012 and the draft Settlement Strategy has undergone an extensive revision process of re-drafting and consultation to date.

DP&I has issued a Section 65 certificate allowing Council to proceed with the final public consultation step – formal exhibition, which requires a Council resolution as authority for staff to action.

## **ATTACHMENTS**

- |   |   |           |           |
|---|---|-----------|-----------|
| 1 | Draft Wyong LEP 2012 - Plan Certified for Exhibition -                              | Enclosure | D03206282 |
| 2 | Land Reclassification Communication Strategy - Draft Wyong Local Environmental Plan |           | D03207739 |

economic analysis

beyond

working

ADW JOHNSON PTY LIMITED

ABN 62 129 445 398

# land reclassification communication strategy

## Draft Wyong LEP

**Property:**

Wyong Shire Area

**Client:**

Wyong Shire Council

**Date:**

November 2012



project management • town planning • engineering • surveying  
visualisation • economic analysis • social impact • urban  
planning

## Document Control

---

Issue No.	Date	Author	
		Name	Signature
A	19.11.12	Jenny Roberts	ORIGINAL SIGNED
B	22.11.12	Jenny Roberts	Final approved by client

**ADW Johnson Pty Limited**  
ABN 62 129 445 398

hunter region  
7/335 hillsborough road  
warners bay nsw 2282  
ph. 02 4978 5100  
fax. 02 4978 5199  
email. hunter@adwjohnson.com.au

central coast  
po box 3717  
tuggerah nsw 2259  
ph. 02 4305 4300  
fax. 02 4305 4399  
coast@adwjohnson.com.au



## **Land reclassification communication strategy – amended November 2012**

---

Our recommendation for a revised consultation process for the community and reclassification elements of the Draft Wyong LEP (WLEP) are set out below.

### **CONTEXT**

The reclassification of land from community to operational status is a significant component of the overall LEP process. The Minister for Planning, the legislation and the Departmental practice notes make it clear that there is a strong governance expectation that consultation with the community will be clear, transparent, directed and documented.

The wider LEP process for Wyong Council area is significant, as it not only includes the changes required by the adoption of the standard template format, but other significant policy, framework and location specific zoning and regulatory changes. The exhibition of the Draft WLEP will require the community and key stakeholder groups to absorb, understand and process significant amounts of complex information at a very busy time of the year.

In this context, Council has developed a comprehensive consultation/communication strategy. The reclassification elements of the LEP must both sit within this wider process and yet demonstrate separate and defined strategies and actions to consult on this particular element of the changes proposed.

To this end an overall strategy with a focus on community meetings has been developed in consultation with the relevant Council officers.

### **OVERALL STRATEGY**

- Link closely to the wider Draft WLEP communication plan (DWLEPCP).
- Ensure consist messages with the DWLEPCP.
- Work with Communications and Planning teams to ensure the statutory and practice requirements in regard to the reclassification process are adequately met.
- Ensure the consultation process and outcomes are clearly reported to the community, Department and elected Council.
- Acknowledge the complexity of the issue and the need for direct face to face consultation.
- Piggy back on the advertising, print and radio media and social media strategies in the DWLEPCP to tailor reclassification messages and events.
- Ensure high quality and consistent information is provided to the community.
- Provide 4 specific community information sessions on the reclassification process.
- Establishment of a Help line/email (TBC).

The details of the community information meetings, as the distinct plank of this strategy, are outlined below.



## THE COMMUNITY INFORMATION MEETINGS

### Objectives:

- To provide information on what land reclassification is and why it is required;
- To provide information of the process and its checks and balances;
- To provide details for people to be able to find out more and specific information;
- To support people being able to make submissions;
- To be able to direct inquiries and concerns to the appropriate WSC staff;
- To be seen to be proactive, transparent and trustworthy;
- To be able to report to the DG and Minister the intent and process Council followed; and
- To be able to proactively respond to significant issues and opportunities.

### Format and style:

- Information sessions;
- Arm's length from Council;
- Informal and welcoming;
- One hour in duration;
- Facilitator and specialist as impartial credible professionals;
- At convenient locations;
- Linked to LEP and Comms strategy for LEP;
- Branded as land classification communication/information;
- PowerPoint presentation, live demonstration; and
- Participants asked to complete a feedback form on the meeting.

### Information to be provided (max 1 hour):

- LEP context (not an LEP session).
- What land classifications is, how it impacts on Council and the community, how it evolved and issues that now exist?
- What the reclassification process is?
- How you can find out more?
- How it generally affects your area, live examples?
- How to get more information?
- How to make a submission?
- Other opportunities for input, i.e. Public Hearing?
- Questions of clarification.



**Risk management:**

<b>Risk</b>	<b>Strategy</b>
People will come expecting LEP information	Be clear in advertising, introduction, and web site data
People will use it as a general Council bashing exercise	Be clear on separation from Council, don't engage, set clear guidelines and manage tightly.
People will want to argue specific sites	Set clear agenda and guidelines, demonstrate separation of roles, commit to taking issues back to Council, provide an appropriate vehicle for them to take issues to Council, record information for ongoing management
People will not attend	Target advertising, make meeting as accessible friendly as possible, record steps taken to demonstrate intent, cross promote communication vehicles.

**Time, days and dates:**

Meetings need to link in with wider LEP strategy.

Advertising, editorial and social media on issues related to reclassification is scheduled for the 7-11 January. Based on these dates the community meetings would be optimally scheduled for the weeks of the 14 and 28 of January. This needs to be discussed with Comms Unit and be flexible to accommodate slippages in the program or the emergence of major issues. Ideally advertising should provide 2 weeks' notice.

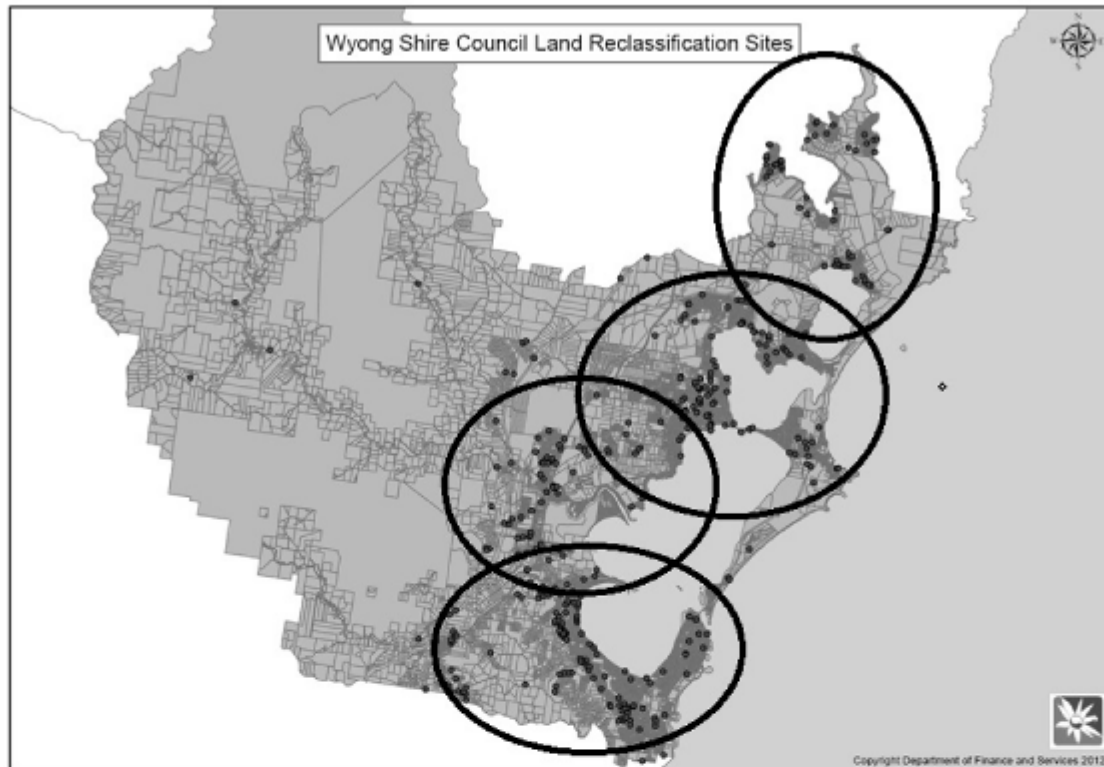
Suggestion: Tuesday and Thursday week one south, Tuesday and Thursday week two north.

**Venues:**

We suggest 4 meeting.

4 different venues spread to concentration areas and in different communities with a max 15 minute drive time to each. A first list of suggestions is provided below:

<b>Bateau Bay Community Hall</b>	<b>7 Parkside Ave, Sutton Reserve, Bateau Bay Rd, Bateau Bay</b>
<b>Wyong Community Centre Complex</b>	<b>Old Primary School, Alison Road, Wyong</b>
<b>Kanwal Community Hall</b>	<b>27-33 Pearce Road, Kanwal</b>
<b>Doyalson RSL</b>	<b>Pacific Highway, Doyalson</b>



#### **Attendance:**

Two representatives as facilitator and expert from ADW Johnson, one admin support person (Council or ADWJ).

Councillors to be advised and able to attend but will be advised they have no role and will be acknowledged but not offered time to speak formally.

Council staff may attend to listen, and clarify but not give views.

#### **LINKAGE TO LEP PROCESS**

The linkage to the LEP process needs to be explained at the meeting and in fact sheets and web information produced by Council.

Participants need to be clearly advised that questions on the LEP will not be addressed.

Participants can be directed to best LEP information vehicle.

The meetings should link into the overall timetable for the LEP and not drive it.

Feedback and opportunities should be fed to the LEP and Comms teams.

**Outputs:**

Report covering:

- Process description;
- Decisions behind process;
- Objectives;
- Attendance;
- Feedback form summary;
- Summary of issues raised at individual meeting;
- Record of communication of issues to LEP and Comms. teams; and
- Assessment and recommendations.

**EVENT MANAGEMENT AND ADMINISTRATION AND ADVERTISING**

As discussed and agreed all this will be the responsibility of council staff (Comms. and property) and our team will provide input, review and coordination.

**ESTABLISHMENT OF A HELP LINE - TO BE CONFIRMED**

The brief identified the possible need for a "hot" line to support both the dissemination of information and the reporting of community input. This option requires detailed consideration as the process of communication unfolds.

If such an option is determined to be required and of value we would prefer that the hot line is referred to as a "help line" to better indicates its public role. In this case a dedicated land line phone number (within the ADWJ offices or Council) can be provided with an answering service. Council may want to provide an email link for direct submission of reclassification submissions. These options should be discussed with Council's communication and ITC team.

The *public service guarantee* that all reasonable enquiries will be responded to by the close of business on the following working day will be adopted as the basis of performance for the *help line*. It is anticipated that the *help line* would operate during the period for lodgement of public submissions.

The requirement that submissions can only be received in writing (a statutory requirement of the EP&A Act) will need to be included in the reclassification fact sheet.

**HELP LINE ASSUMPTIONS – UNCHANGED**

The help line will only provide verbal advice on the making of submissions regarding the reclassification. Specific issues will not be addressed and callers will be directed as to how to best have input and what they can expect from the process.

No submissions will be received via the help line, the nominated facilitator or ADWJ.

All submissions will be to Council.



## THE PROCESS SUBSEQUENT TO THE COMMUNITY MEETINGS

Subsequent to the community meetings the following steps/actions will be completed:

- Assessment of submissions;
- Report to Council on submissions;
- Report on help line (as required);
- Conduct of an Independent Public Hearing (statutory requirement);
- Report on Public Hearing; and
- Preparation of Hearing Report to Council.

## ASSESSMENT OF SUBMISSIONS

Assessment of submissions will focus on establishing for each parcel if the decision to reclassify from community to operation is justified.

ADWJ will develop a set of assessment criteria to enable this process and to underpin the impartiality and integrity of the process. These criteria will be made public via the fact sheets at the outset of the process. The assessment criteria will be used to determine if the information or issues raised in any submission has sufficient value to cause a reassessment and decision to reverse the Council reclassification proposal. It is expected that a Council proposal would be recommended for reversal only if it is demonstrated that:

- there is community use (not just service use) of a parcel of land, and
- that the use is not adequately addressed elsewhere in the locality, and
- there would be a public benefit in having a management plan over the land.

In the instance when a submission is of sufficient weight and logic to put in question the reclassification proposal recommend by Council, then the facilitator would recommend a deferral of the reclassification for more comprehensive or detailed consideration. This may or may not lead to a reversal of the proposal but will ensure the issues raised by the community are afforded due consideration

One issue that may require specialist assessment is the financial implications of reclassification. Should there be any reasonable submissions in this regard provision has been made by inclusion of a Valuer as part of the project team.

It is similarly logical that if there are no submissions on a parcel of land then the assessment to reclassify would stand and progress to the Department for determination.

## REPORT TO COUNCIL ON SUBMISSIONS

As part of the project we would provide summary detail on the number and content of submissions to Council. Individual parcels would only be discussed if submissions raised merit issues of sufficient weight or number or if there may be a need to reconsider the proposed reclassification or if they raise a wider issue or concern that Council should be appraised of.



The report to Council would provide advice on the mandatory public hearings based on the submissions received from exhibition. It is assumed that reporting will not be required on each individual land parcel. Further that the report should focus on the main issue and sites.

### **PUBLIC HEARING**

The facilitator will preside over Public Hearing to ensure compliance with LG Act 1993 requirements.

ADWJ will provide the facilitator, manage, support and document the Hearings to ensure independence. The facilitator will provide a report of the Public Hearing to Council.

In reality the specifics of what will be required by way of a Public Hearing will not be completely known until submissions have been received and reviewed and the community meeting completed and analyzed. While there are statutory processes to follow there will need to be a degree of flexibility in the consultancy to manage the process as is best determined.

#### **Public Hearing Assumptions:**

There will be one public hearing held at the Council.

The Public hearing will be held following public exhibition of the LEP and after submissions have been assessed and reported to Council. Council will organize, advertise and provide the meeting venue along with the associated staff, audio visual equipment and any refreshments etc.

Council will publicize and issue written notice of proposed public hearings in accordance with the relevant process and statutory requirements.

The public hearing will address reclassification only. Any public hearing addressing other than reclassification matters arising under the comprehensive LEP will be held separately. Council officers will liaise and consult with the facilitator in regard to these matters.

#### **Facilitators report to Council on the Public Hearing:**

In accordance with the relevant statutory requirements the facilitator will provide a report on outcomes of the Public Hearing to Council to be placed on public view.

We will ensure that the information in the report is consistent with LEP practice note requirements and that all relevant statutory requirements have been observed.

The assistance of the facilitator will be limited to review of the report and provision of confirmation that the reporting to Council on the submissions and public hearings is fair and accurate.



## BACKGROUND INFORMATION INFORMING THE DEVELOPMENT OF THE PROPOSED STRATEGY

### Process of decision making:

Council endorsed our facilitation plan in January 2012 based on:

- Council's brief and understanding of the issues;
- The nature of the land parcel to be reclassified;
- The spread of parcels across the LGA ;
- The political environment;
- Ministerial and DG's directives on reclassification;
- The experience of other Councils;
- Planning practice notes;
- Legislation for Public Inquiries;
- Wider Council strategies re LEP consultation;
- Council's resolutions of 23<sup>rd</sup> November 2011;
- Comparative tender and assessment of best approach;
- Understanding that upfront effort reduces derailment at later stages; and
- Knowledge that the community will be rightly skeptical and the matter is too complex to explain third hand.

### WHY PUBLIC MEETINGS ARE AN IMPORTANT PART OF THE CONSULTATION PLAN

Wyong Shire scores 966.8 on the SEIFA index of disadvantage, indicating it is more disadvantaged than the national average. This indicates the need for a range of communication strategies that help explain complex issues.

Up to 30% of the Wyong population have no internet connection at home indicating that web based information doesn't reach a considerable percentage of the population.

Up to 8% speak English poorly or less than well, indicating that reading English is also an issue for these people, and that face to face communication is often important as is the ability to ask questions and clarify understanding.

27% rent their home and don't get rate notice information.

The messages are complex and difficult for people to understand.

There is a high risk that people will perceive the entire reclassification process as an attempt by Council to sell of land.

The Minister supports community meetings as a clear demonstration that Council is being open and communicating.



State wide research shows that the profile of the community members most strongly engaged in the issues on exhibition does not reflect as strong use of social media and ICT and demonstrates a preference for community meetings.

#### **COMMENTS RE COMMUNICATIONS STRATEGY IN REGARD TO RECLASSIFICATION PROJECT**

No comments about the land reclassification process approach as a key message. WLEP also applies to Council owned land this is not made explicit in the key messages.

Council runs the risk of being misleading if it suggests it is the document on exhibition is a standardised planning instrument. It is considerably more than that. The reclassification is not part of the standard instrument process and we believe there is a responsibility to state this as a key message.

The strategy refers to what is on exhibition but does not include reclassification of community lands as an item.

The Act and DoIP sets specific exhibition requirement reclassification process. It is important that these are met and the following should be checked for consistency:

- Printed fact sheets;
- Web material;
- General staff briefing;
- Counter staff briefings ;
- Mapping Consultation forms;
- Promotional posters; and
- LEP staff at libraries etc.

#### Critical dates:

December 3	Section 66 issued to enable exhibition.
December 3	Mapping and web sites live.
December 3	Radio and newsprint advertisements.
December 10	Exhibition formally starts.
January 7 to 11	Land reclassification focus in advertising.
28 January to 1 February	Council owned land rezoning media release.
February 4 to 7	Council owned land rezoning social media.

Based on these dates the community meetings would be optimally scheduled for the weeks of the 14 and 28 of January.

Noted these dates are subject to change and will be confirmed with Communication team prior to any action.



## WHAT HASN'T CHANGED

- The property unit's commitment to doing it right and demonstrating due process to the Department.
- That a public hearing in accordance with S.57 of the EPA is Act is mandatory for reclassification and must follow public exhibition of the LEP. This provides the community with an opportunity for an open and measured discussion and for the open presentation of points of view.
- That it is a requirement of the Local Government Act that a reclassification hearing cannot be presided over by Councilors or Council employees or someone who has been a Councilor or employee within the last 5 years. An "independent" person must conduct the public hearing and provide a report of the hearing to Council for public display.
- Council must be provide with a report for consideration following the exhibition and submission on the reclassification process, its outcomes, submissions and only then can the land be recommended to the Planning Minister for reclassification under the LEP.



## **5.1 Classification of Land, Lot 229 DP 1175020 at Grasstree Avenue, Woongarra**

---

TRIM REFERENCE: DA/375/2005/D - D03195696

MANAGER: David Jack, Acting Director Land Management Department

AUTHOR: Julie Tattersall; Property Administration Officer

### **SUMMARY**

Authority is sought to classify Lot 229 DP 1175020, Grasstree Avenue, Woongarra as Operational Land.

### **RECOMMENDATION**

- 1 That Council propose classification of Lot 229 DP 1175020, Grasstree Avenue, Woongarra, as Operational Land.**
- 2 That Council advertise the proposal in accordance with Section 34 of the Local Government Act 1993.**
- 3 That Council adopt the classification if no adverse submissions are received.**

### **BACKGROUND**

Lot 229 DP 1175020 in a subdivision at Woongarra has been dedicated to Council by Stannic Securities Pty Ltd as temporary road from the plan of subdivision pursuant to a condition of consent.

The condition of consent requires the provision of a turning head at the eastern end of the road until the adjoining property to the east is developed and roads are extended.

Lot 229 DP 1175020 is 60 square metres and is zoned 2 (e) Urban Release Area Zone.

### **THE PROPOSAL**

Under Sections 39 and 40 of the Roads Act 1993, Council is required to transfer the temporary public road to the original subdivider if it is no longer required to give access as intended.

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

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

**OPTIONS**

Council may resolve to apply either a “community land” or an “operational land” classification. As the land is to be used for functional purposes as a temporary road it should be classified as Operational Land in accordance with the Public Land Classification Table adopted by Council.

**Budget Impact**

There is no cost to Council to classify the land.

**GOVERNANCE AND POLICY IMPLICATIONS**

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



## CONCLUSION

Lot 229 DP 1175020 has been dedicated to Council and requires classification in accordance with Local Government Act 1993 (Chapter 6, Part 2, s25-34). In this instance Operational classification is proposed on the basis of the use of the land as temporary road and the requirement under the Roads Act 1993 for the land to be transferred to the original subdivider if it is not longer required to give access as intended.

**ATTACHMENTS**

*Nil.*

## **6.1 CPA/185309 - Provision of Routine Tree Services**

---

TRIM REFERENCE: CPA/185309 - D03174585

MANAGER: Gary Kinney, Project Director

AUTHOR: Claire Ashby; Project Manager, CPM Team 1

### **SUMMARY**

Evaluation and selection of tenders for Contract CPA/185309 – Provision of Routine Tree Services

### **RECOMMENDATION**

- 1** *That Council accept the tenders from the two companies nominated as Tender No 12 (No. 1 ranked company) and Tender No 4 (No. 2 ranked company) in the attached Tender Evaluation Report, to form a ranked panel for Contract CPA/185309 - Provision of Routine Tree Services for a period of three years.*
- 2** *That Council determines the Tender Evaluation Report in Attachment A remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.*
- 3** *That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.*

### **BACKGROUND**

Tree services create a significant annual spend for Council. There are several different business units within Council which require tree services, such as Roads and Drainage, Water and Sewer and Open Space. Tree services are categorised as either routine or non-routine (which includes emergency work). The scope of this proposed contract is routine tree services.

Routine services are all tree works that, in the reasonable opinion of Council's Representative, are capable of being carried out safely with one fully trained and competent three man crew consisting of a supervisor, a climber/cutter and a ground person. The routine services that are covered under the scope of this proposed contract include:

- Crown maintenance or modification and removal of trees as directed
- Wood chipping
- Removal of all debris
- Stump and root grinding / management as required
- Traffic management

## **6.1 CPA/185309 - Provision of Routine Tree Services (contd)**

---

Non-routine tree services (including emergency work) are, by nature, unique to each situation and not possible to be adequately defined, scoped and priced in a standing offer periodic contract to cover every possibility. The non-routine work which is outside the scope of this contract includes the following:

- All tree works requiring a crane
- Tree works where the operations are conducted over water
- All electrical tree hazard work
- Advanced felling and pruning work i.e. disassembling or pruning of significantly large trees in confined spaces adjacent to infrastructure
- Any works that require a forest mulcher, excavator with cutting head or other specialised plant and equipment.

Non-routine trees service work will continue to be undertaken under the present arrangement of obtaining site specific competitive quotations for each job as and when required.

Currently there is no periodic contract in place for routine tree services, Works are packaged into small jobs and quoted on a daily rate basis for crew and equipment. This arrangement is not time efficient as there is considerable administration involved for each package of works. The proposed contract will increase efficiency and simplify this process through the formalisation of a period contract.

The periodic contract for routine tree services is best suited to a ranked panel of contractors (minimum 2 contractors) who can provide crews on request to service day to day needs. It is intended that all smaller/ simpler jobs will be conducted under this proposed contract.

### **INVITATION TO TENDER**

The tender opened on 24/07/12 via eTender and closed at 2.00pm on 16/08/12.

The tender was advertised in the Sydney Morning Herald on 24/07/12 and the Express Advocate on 25/07/12.

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

### **TENDER SUBMISSIONS**

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

- A and J Van Haren (A & J Tree Services)
- Active Tree Services Pty Ltd
- Arbor Pride Pty Ltd
- Asplundh Tree Expert (Aust) Pty Ltd
- Aussie Services Group Pty Ltd
- CJ Murphy Tree Recycling Services Pty Ltd
- Environmental Land Contracting Pty Ltd
- Erikate Pty Ltd (Argonauts Tree & Timber Service)
- J K Cooper Tree Services Pty Ltd

## **6.1 CPA/185309 - Provision of Routine Tree Services (contd)**

---

- Kingdoms Tree Care Pty Ltd
- Macquarie Vegetation Management Pty Ltd (Aerial Tree Services)
- Plateau Tree Service Pty Ltd
- Sydney Metro Tree Services Pty Ltd
- Tree and Garden Services
- Tony Jarvis (Treecorp Solutions)

No late submissions were received.

### **TENDER EVALUATION**

All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.

The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Report – Attachment A.

All submissions were assessed in accordance with the approved evaluation criteria being:

- a) Compliance with Request for Tender documents, including lodgement of submission by specified time and completion of returnable schedules;
- b) The tenderer has an WHS Management System;
- c) Evidence of required qualifications as set out in the specification;
- d) Assessed level of Local Content (MANDATORY);
- e) WHS past performance, systems and certification;
- f) Experience & qualifications of principals, supervisors and crew members;
- g) Experience in the industry, past performance, referee reports, work capacity offered, equipment;
- h) Tendered rates for tree crew and equipment.

### **FINANCIAL IMPLICATIONS**

The majority of the works will be undertaken as part of Open Space's operational budget. The remainder of works will be funded by individual service units when works are undertaken as part of individual project budgets.

### **RELEVANT LEGISLATION**

The tender has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and Council's Procurement Policy.

Information provided by tenderers which is commercial-in-confidence has been protected and will not be disclosed in accordance with section 10A(2)(d) of the Local Government Act 1993. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

### **CRITICAL DATES / TIME FRAMES**

It is anticipated that the contract will be awarded in mid December 2012.

### **OPTIONS/ALTERNATIVES**

Council has the option of not proceeding with this contract by resolving not to accept an offer from any of the Tendering parties. This option is not recommended.

**ATTACHMENTS**

1 T145 Tender Evaluation Report - Attachment A - Confidential - D03170470



## **6.2 CPA/186620 - Construction of a Solar Tower at Scaddens Ridge**

---

TRIM REFERENCE: CPA/186620 - D03182934

MANAGER: David Witherdin, Manager Contract and Project Management

AUTHOR: Gary Kinney; Project Director

### **SUMMARY**

Evaluation and selection of tenders for Contract No. 186620 – Construction of a Solar Tower at Scaddens Ridge.

### **RECOMMENDATION**

- 1 That Council accept the tender from the company nominated as Tenderer '8' in the attached Tender Evaluation Report, for the lump sum amount of \$150,000 (excl GST) for Contract CPA/186620 – Construction of a Solar Tower at Scaddens Ridge.**
- 2 That Council determines the Tender Evaluation Report in Attachment A, remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.**
- 3 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.**

### **BACKGROUND**

Council at its meeting on 10 October 2012;

*“RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor TAYLOR:*

*223/12 That Council defer consideration of this item until the Ordinary Meeting to be held on 24 October 2012.*

*FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER*

*AGAINST: NIL”*

Council has an existing telecommunications tower erected at Scaddens Ridge on land that is part of Ourimbah State Forest, owned by Forests NSW. Council has occupancy of the site under occupancy Licence No 14416 issued by Forests NSW. The land, accessed from Red Hill Road, is described as Lot 111 DP 755249.

This facility is used by Council for its own telemetry network and two-way communication system. It is also used by other authorities for telecommunications transmitters, including emergency service authorities. The electrical power supply for the site is currently provided by a diesel generator.

The proposed contract is for the construction of a 20 metre high tower, beside the existing telecommunications tower, to house a bank of solar panels to provide electricity to the site. It is intended to keep the existing diesel generator on site as back up, considering the essential nature of the purpose served by the existing telecommunications tower.

The Work involves the construction of reinforced concrete piles and footing and fabrication and erection of a structural steel tower. The design provides for hot dip galvanising of all components rather than a paint corrosion protection system to resist damage during bush fire. It also provides for shop prefabricated and on-site bolted connections to eliminate on-site welding which would result in damage to the galvanising.

Additional sources of power supply were discussed with Councilors Taylor and Troy and Council staff at a site meeting on 29 November 2012. At their suggestion, the addition of a wind turbine to the proposed tower was investigated.

The tower has been designed to carry 30m<sup>2</sup> of solar panels. The design engineers have advised the tower can carry a 1kW wind turbine if it is required at a later date. The assessment was based on a Swan Energy turbine which has a blade diameter of 1.8m and a mass weight of 17.5kg. Kestrel & Siliken turbines were also reviewed however their blade diameters and weights exceeded the Swan Energy option – 3m / 75kg and 3.4m / 95kg respectively.

DRAFT

## INVITATION TO TENDER

The tender was advertised in the Sydney Morning Herald on 26 June 2012, the Central Coast Express on 27 June 2012 and eTender on 26 June 2012.

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

A compulsory pre-tender meeting was held on site on 4 July 2012 to allow tenderers to become familiar with site conditions.

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

- 1 Minutes of the pre-tender meeting held on 4 July 2012, notification of an extension of closing time by one week and clarification regarding supply and installation of solar panels.
- 2 Answers to questions from tenderers, issued 12 July 2012.

Tenders closed at 2.00 pm on 19 July 2012.

## TENDER SUBMISSIONS

Eighteen tenders were received from the following companies and are listed below in alphabetical order.

ACA Ace Construction Australia  
Assetmark Group  
Australian Prestressing Services  
Axis Building Group  
Bridge and Civil Pty Ltd  
Developing Business Pty Ltd  
General Technologies Company Pty Ltd  
Gongues Constructions Pty. Ltd.  
HB Projects NSW Pty Ltd  
Master Fabrication Pty Ltd  
Murphy McCarthy & Associates Pty Ltd  
Northcote Constructions  
Radiolines Pty Ltd  
Risle Holdings Pty Ltd  
RTCommunications Pty Ltd  
Steelworks Engineering Pty Ltd  
Talis Civil Pty Ltd  
Visionstream Australia Pty Ltd

No late tenders were received.

## TENDER EVALUATION

All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.

The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Report – Attachment A.

All submissions were assessed in accordance with the approved evaluation criteria being:

- Assessed level of Local Content.
- Compliance with Tender documents, including lodgement of tender by specified time.
- Evidence of corporate systems to manage quality, environmental, and safety risk.
- Ability to manage financial risk.
- The tendered price and structure; as well as any other potential costs to Council that may be identified.
- Experience in the specific field or with similar structures.
- Past recent performance of Tenderer in contracts of similar nature, supported by referee reports.
- The Tenderer's ability to complete the works within the required timeframe.

DRAFT

**FINANCIAL IMPLICATIONS**

There are sufficient funds allocated for this contract within the current year's capital works program under Water & Sewerage project number 15796.

**RELEVANT LEGISLATION**

The tender has been conducted in accordance with the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and Council's Procurement Policy.

Information provided by tenderers which is commercial-in-confidence has been protected and will not be disclosed in accordance with section 10A (2) (d) of the *Local Government Act 1993*. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

**CRITICAL DATES / TIME FRAMES**

If Council resolves to accept the tender, the contract will be awarded at the earliest opportunity after the rescission period following the Council meeting. The contract period for completion of construction is 18 weeks.

**OPTIONS / ALTERNATIVES**

Council has the option of not proceeding with this contract by resolving not to accept an offer from any of the Tendering parties. This option is not recommended.

**PUBLIC CONSULTATION**

No public consultation specific to this project was necessary and none has occurred.

**ATTACHMENTS**

- 1 T145 Tender Evaluation Report, Confidential Attachment A. CPA/186620 D03133256  
- Construction of a Solar Tower at Scaddens Ridge. -

DRAFT

### **6.3 CPA/199536 - In Situ Stabilisation Works**

---

TRIM REFERENCE: CPA/199536 - D03201310

MANAGER: Andrew Pearce, Manager, Roads and Stormwater

AUTHOR: Sue Ralph; Tech Officer Contracts Administrator

#### **SUMMARY**

Evaluation and selection of tenders for Contract - CPA/199536 – In Situ Stabilisation - a ranked panel contract for a period of three years with a two year option.

#### **RECOMMENDATION**

- 1 That Council accept the tender from Tenderer 2 for a period of three years with a two year option as the first ranked supplier for Contract CPA/199536 – In Situ Stabilisation.**
- 2 That Council accepts the tender from Tenderer 1 for a period of three years with a two year option as the second ranked supplier for Contract CPA/199536 – In Situ Stabilisation.**
- 3 The Council note the estimated annual expenditure against this contract is \$3,370,000.00) (excl GST) based on the past three years average expenditure, however actual expenditure may vary significantly with fluctuations in demand.**
- 4 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.**

#### **BACKGROUND**

Council undertakes In Situ Stabilisation works as a methodology in the rehabilitation and renewal of road pavements identified through Councils annual capital works program.

Geotechnical testing and investigations are undertaken at identified project locations and the results used to develop and evaluate different pavement design options in accordance with sound pavement engineering principles.

On any given project a number of design options will typically exist. Historically traditional full excavation, disposal and construction of a new deep flexible granular pavement was the default pavement design for all projects in Wyong Shire. This treatment had the disadvantage of generating large volumes of waste materials, high costs of construction, and long construction times.

With the renewed focus on asset renewals rather than upgrades and delivering the lowest cost pavement option for a given design life, Council customises the pavement design and treatment taking into account existing conditions, traffic projections, and desired pavement lifespan.

In Situ Stabilisation is one pavement rehabilitation treatment option used as part of councils annual road rehabilitation program in situations where it is evaluated as the optimum treatment.

In Situ Stabilisation of road pavements involves the introduction of material to an existing pavement in situ to improve its engineering properties. These materials typically include a single or blend of binders e.g. cement, flyash, lime and bitumen. Additional aggregates may also be added to the existing pavements to improve the grading or physical properties of the existing materials.

Insitu stabiliation provides considerable benefits to Council, including:

- Reusing/recycling existing pavements thereby reducing waste materials and demands on natural resources
- Reduced road transport movements and greenhouse gases
- Reduces the permeability of the pavement thereby reducing the main cause of pavement failure in the low lying areas of Wyong Shire, water ingress
- Significantly reduced construction times
- Cost savings in the order of over 50% for a given design life relative to other pavement rehabilitation techniques.

The process requires the use of specialist purpose built machinery which strips the existing wearing course, followed by milling, addition of binder and mixing, compaction and trim. Councils sealing contractor then completes the wearing surface. Given the specialist nature and high capital cost of equipment required to undertake Insitu stabilisation, there is limited competition in the regional market place at this time.

Council is accordingly required to go to public tender for the provision of Insitu Stabilisation services. A contract panel arrangement was agreed upon as it provides Council with an alternative supplier if the first ranked supplier is unavailable.

The **Contractor's** scope of the work under the contract includes the following:

- Supply of stabilising agents
- Rip or mill asphalt patches
- Compact and trim above surface
- Mill off existing road surface
- Stabilisation – pre-milling (if required), spread stabilising agent, mix, compact, trim for all stabilising works processes
- Traffic management
- Off setting Linemarking prior to commencement of work
- Shoulder grading if required
- Safety management
- Notification of residents
- All incidental and associated works and activities including any other associated work or activities referred to in the RMS Specifications.

The scale of works for this Contract will range from small scale "heavy patching" works through to major road renewal works.

**INVITATION TO TENDER**

The tender was advertised in the Sydney Morning Herald, and eTender on Tuesday 11 September 2012 and Central Coast Advocate on Wednesday 12 September 2012 and closed on Thursday 11 October 2012.

The invitation documents called for Schedule of Rates tenders, based on RMS Specifications R73 Construction of Plant Mixed Heavily bound Pavement Course and R75 Insitu Pavement Stabilisation Using Slow Setting Binders.

A compulsory pre-tender meeting was held at Wyong Shire Council Chambers Hely St Wyong. On Wednesday 19 September 2012 to allow tenderers to become familiar with site conditions.

Tenders closed at Council's Chambers at 2.00pm on 11 October 2012

**TENDER SUBMISSIONS**

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

- Accurate Asphalt and Road Repairs Pty Ltd
- Stabilised Pavements Australia Pty Ltd

No late submissions were received.

**TENDER EVALUATION**

All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.

The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Report – Attachment A.

All submissions were assessed in accordance with the approved evaluation criteria being:

**Threshold Criteria:**

1. Conformity to the Request for Tender documentation
2. Compliance with Tender documents, including lodgement of tender by specified time
3. Ability to manage financial, environmental, operational and safety risk.

**Weighted Criteria:**

1. Assessed level of Local Content in accordance with Council's "Local Preference Policy – Procurement" (10%)
2. Proposed methodology, including location of works depot, which demonstrates capacity to provide the services as required under the Contract including the Technical Specification (20%)
3. The tendered price and structure; as well as any other potential costs to Council that may be identified (50%)
4. Experience and proven performance in the specific field, including referee checks, proven reliability in undertaking works in a timely manner and the ability to undertake small "patching works" as well as larger road renewal works (20%).

**FINANCIAL IMPLICATIONS**

Project funds are available from the Roads and Stormwater Rolling Works Program and Reseal Program.

Because the contract is of the nature of a standing offer arrangement, purchases will be funded from responsibility centres as transactions are processed, rather than from an allocation made to this contract itself. The estimated value of the arrangement is therefore not a budget figure, but rather it is simply an indication of the overall scope of the arrangement.

**RELEVANT LEGISLATION**

The tender has been conducted in accordance with the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and Council's Procurement Policy.

Information provided by tenderers which is commercial-in-confidence has been protected and will not be disclosed in accordance with section 10A(2)(d) of the *Local Government Act 1993*. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

**CRITICAL DATES / TIME FRAMES**

The current Insitu Stabilisation Contract CPA/163632 has reached the end of its term on 30 October 2012. This new contract will follow on from the current contract to complete this years Rolling Works, Reseal and Roads Renewal Programmes. It is anticipated this contract will carry forward from 1 January 2013.

**OPTIONS/ALTERNATIVES**

Council has the option of not proceeding with this contract by resolving not to accept an offer from any of the Tendering parties. This option is not recommended.

**PUBLIC CONSULTATION**

No public consultation specific to this project was necessary and none has occurred.

**ATTACHMENTS**

- |  |           |
|--|-----------|
| 1 Confidential - CPA/199536 - In Situ Stabilisation - Tender Evaluation Report - | D03206288 |
|--|-----------|



## **6.4 CPA/213807 - Provision of effluent and sludge removal and disposal services**

---

TRIM REFERENCE: CPA/213807 - D03174465

MANAGER: Stefan Botha, Manager Waste

AUTHOR: Charlotte Drury; Waste Operations Manager

### **SUMMARY**

Evaluation and selection of tenders for Contract CPA/213807 – Provision of effluent and sludge removal and disposal services.

### **RECOMMENDATION**

- 1 That Council decline to accept any of the tenders.**
- 2 That Council cancel the proposal for the contract.**
- 3 That Council approve an extension of the existing contract up to June 30 2013.**

### **BACKGROUND**

There are currently approximately 50 premises representing domestic, commercial and Council premises, which receive a regular fortnightly or more frequent pump out service from the collection well of a septic tank. Additionally, there are approximately 3000 premises, generally in rural areas, connected to either on-site septic tanks or aerated waste treatment systems (AWTS) which may require periodic sludge removal services.

Residential services receiving an effluent pump out service currently pay an annual charge set out in the Strategic Plan. The charge of \$1067.61 for 2012/13 entitles the owner to a regular fortnightly service. The contractor handles all bookings and collects all the fees applicable as part of the service.

Council sought the services of a Contractor to provide the above services to domestic properties on a fortnightly basis and from Council and commercial properties at a frequency determined by Council's Representative. Sludge removal services of septic tanks and aerated septic tanks are to be provided on an on-call basis.

The current effluent removal and disposal contract for Wyong Shire Council is held by Remondis Australia Pty Ltd. This contract started on the 7th September 2007 and was originally held by Thiess Services Pty Ltd until the 28<sup>th</sup> of November 2012. It was novated to Remondis Australia Pty Ltd as part of the company takeover.

This contract expired on the 6<sup>th</sup> of September 2012 and is currently being extended under the same terms and conditions on a month by month basis. This arrangement may be terminated at any time by either party giving the other party not less than 90 calendar days notice in writing.

## **6.4 CPA/213807 - Provision of effluent and sludge removal and disposal services (contd)**

---

Council investigated whether a joint contract arrangement with other adjoining Council's would be able to provide improved tender pricing and the ability to negotiate with greater influence on the tender conditions. It was determined that whilst there are some operational issues to be overcome a collaborative approach could be beneficial for each Council.

There is potential to enter into joint arrangements in the new year and staff will investigate how these tenders might best be structured and call tenders accordingly.

Remondis Australia Pty Ltd has provided their support to extend the current contract on a month by month basis until this time.

### **INVITATION TO TENDER**

The tender was advertised in the Sydney Morning Herald on 3 July 2012, Central Coast Express Advocate on 4 July 2012 and e-Tender on 3 July 2012 and closed on 26 July 2012.

The invitation documents called for a schedule of rates contract, based on a detailed specification.

Tenders closed at Council's Chambers at 2.00pm on 26 July 2012.

### **TENDER SUBMISSIONS**

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

- Thiess Services Pty Ltd
- Transpacific Industries Pty Ltd trading as: Transpacific Technical Services – Northern NSW Pty Ltd
- Barry Bros. Specialised Services Pty Ltd trading as: Toxfree Solutions Pty Ltd.

No late submissions were received.

### **TENDER EVALUATION**

The tender evaluation process was completed and it indicated that none of the conforming tenders offered best value for money to Council. Therefore, it was determined that the best option for Council at this time would be to decline to accept any of the tenders and cancel the proposal for the current contract.

### **FINANCIAL IMPLICATIONS**

The existing contract CPA/125834 has sufficient funds remaining to extend the current contract until June 30 2013. It is estimated that the cost over the nine month extension period will be \$62,000. Therefore sufficient delegation and budget is available in the existing contract to allow for the requested contract extension.

#### **6.4 CPA/213807 - Provision of effluent and sludge removal and disposal services (contd)**

---

The service to domestic properties is partly funded by costs applied to residential rate payers in their rates and partly from the Water and Sewer HF/2 account. The extension of the current contract will not alter Council budgets as regardless of the contractor chosen sufficient funds for this service have already been set aside in Council's annual plan to allow for effluent removal.

#### **RELEVANT LEGISLATION**

The tender has been conducted in accordance with the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and Council's Procurement Policy.

Information provided by tenderers which is commercial-in-confidence has been protected and will not be disclosed in accordance with section 10A(2)(d) of the *Local Government Act 1993*. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

#### **OPTIONS/ALTERNATIVES**

Council has the option of proceeding with the current tender evaluation process, however this option is not recommended.

#### **PUBLIC CONSULTATION**

No public consultation specific to this project was necessary and none has occurred.

#### **ATTACHMENTS**

- 1 Attachment A - Confidential Tender Evaluation Report - D03191493

## **6.5 CPA/186318 - Inspection, Testing, Maintenance, Survey and Reporting of Council's Fire Protection Systems and Equipment**

---

TRIM REFERENCE: CPA/186318 - D03208275

MANAGER: David Witherdin, Manager Contract and Project Management

AUTHOR: Claire Ashby; Project Manager, CPM Team 1

### **SUMMARY**

Evaluation and selection of tenders for Contract CPA/186318 - Inspection, Testing, Maintenance, Survey & Reporting of Council's Fire Protection Systems and Equipment.

### **RECOMMENDATION**

- 1 That Council accepts the tender from the company nominated as Tender No 3 in the attached Tender Evaluation Report in the estimated total amount of \$555,771.00 (excl. GST) for Contract CPA/186318 – Inspection, Testing, Maintenance, Survey & Reporting of Council's Fire Protection Systems & Equipment at various Council facilities for a period of three years.**
- 2 That Council determines the Tender Evaluation Report in Attachment A remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.**
- 3 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.**

### **BACKGROUND**

Routine inspection, testing, maintenance, survey & reporting of Council's Fire Protection Systems and equipment is required to fulfil essential safety and legal obligations and duty of care to users.

Automatic Fire Protection Design Pty Ltd had been engaged by Building Services for several years on an informal (non-contractual) basis to carry out inspections and maintenance on Council's fire protection equipment in accordance with AS1851. This arrangement was terminated on 28 June 2010 due to the need to formalise a contractual engagement to meet the procurement requirements of the Local Government Act.

Upon terminating that arrangement, the Contracts and Project Management Unit called quotations for an interim 3-month contract. This "interim" contract was called due to the many complex issues being encountered when initially attempting to prepare the contract documents. It was agreed the "interim" contract arrangement would be appropriate because it is necessary to ensure Council's fire protection equipment is appropriately inspected, tested and maintained whilst the new contract is being drafted. The interim contract was awarded to Automatic Fire Protection Design Pty Ltd on 2 August 2010.

## **6.5 CPA/186318 - Inspection, Testing, Maintenance, Survey and Reporting of Council's Fire Protection Systems and Equipment (contd)**

---

The necessity to formalise a longer term contract is long overdue. Council accepted a variation report on 27/6/12 indicating that the contract would be awarded by November 2012.

### **INVITATION TO TENDER**

The tender opened on 14 August 2012 via eTender and closed at 2.00pm on 13 September 2012.

The tender was advertised in the Sydney Morning Herald on 14 August 2012 and the Central Coast Express on 15 August 2012.

The invitation documents called for Combined Lump Sum and Schedule of Rates, based on a detailed specification.

### **TENDER SUBMISSIONS**

The following tenders were received and are listed in the following order:

- Alconex Holdings Pty Ltd
- Alliance Fire Systems Pty Ltd
- Automatic Fire Protection Design Pty Ltd
- Celsius Fire Services Pty Ltd
- CMS Consulting Pty Ltd
- JRBMJS Pty Ltd (Datacom Fire Solutions)
- Extreme Industries Pty Ltd
- FireFront Services Pty Ltd
- Greentech Industries Pty Ltd
- Grosvenor Fire Pty Ltd
- Hirotec Maintenance Pty Ltd
- PD Bulbeck (Bullbeck Fire Protection)
- Precision Fire Protection Services Pty Ltd
- Labrobin Pty Ltd (Red Men Fire Protection)
- Shunique Pty Ltd (FirePro Solutions)
- Universal Fire Protection Pty Ltd
- Vortex Group Australia Pty Ltd

No late submissions were received.

### **TENDER EVALUATION**

All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.

The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Report – Attachment A.

All submissions were assessed in accordance with the approved evaluation criteria being:

## **6.5 CPA/186318 - Inspection, Testing, Maintenance, Survey and Reporting of Council's Fire Protection Systems and Equipment (contd)**

---

- a) Compliance with Tender requirements, including lodgement by Closing Time.
- b) Evidence of corporate systems to manage quality and safety (WHS) risks
- c) Assessed level of Local Content (MANDATORY)
- d) The tendered price and structure; as well as any other potential costs to Council that may be identified
- e) Proposed methodology which demonstrates capacity to provide the Services as required under the Contract
- f) Experience and proven performance with work of a similar nature and scale

### **FINANCIAL IMPLICATIONS**

Because the contract is of the nature of a standing offer arrangement, services under the contract will be funded from responsibility centres as transactions are processed, rather than from an allocation made to this contract itself. The estimated value of the contract is therefore not a budget figure, but rather it is simply an indication of the overall estimated expenditure under the contract. Although the estimated value of the contract equates to a total of \$555,771.00 over the full 3 year term, the actual value will depend on the quantities ordered as requirements arise over the life of the contract. The total amount ordered under this contract could therefore vary significantly if demand patterns alter for this service.

As the contract includes the provision for Corrective and Reactive Maintenance of Fire Protection equipment, the nominal hours allocated to this service could vary the contract price significantly depending on need. At tender, the current level of Corrective and Reactive maintenance required was assessed by Council's Building Services Unit and the estimated need is based on trend over the previous several years.

The contract is based on the current asset list, and includes a schedule of Fire Protection equipment. The contract allows for this asset register to be completed and maintained, allowing for more accurate monitoring in the future. The contingency amount is intended to allow for any additions of equipment to the register that might be required to make the maintenance register complete and also includes some provision for the addition of new building assets to the register due to the length of the contract term.

### **RELEVANT LEGISLATION**

The tender has been conducted in accordance with the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and Council's Procurement Policy.

Information provided by tenderers which is commercial-in-confidence has been protected and will not be disclosed in accordance with section 10A(2)(d) of the *Local Government Act 1993*. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

### **CRITICAL DATES / TIME FRAMES**

It is anticipated that the contract will be awarded in December 2012 and that the service contract will commence immediately.

**6.5 CPA/186318 - Inspection, Testing, Maintenance, Survey and Reporting of Council's Fire Protection Systems and Equipment (contd)**

---

**OPTIONS/ALTERNATIVES**

Council has the option of not proceeding with this contract by resolving not to accept an offer from any of the Tendering parties. This option is not recommended.

**PUBLIC CONSULTATION**

No public consultation specific to this project was necessary and none has occurred.

**ATTACHMENTS**

- |          |  |           |
|----------|--|-----------|
| <b>1</b> | T145 A - Tender Evaluation Report Confidential Attachment A - For Council Business Paper - | D03208233 |
|----------|--|-----------|

## **7.1 Minutes and Membership of the Employment and Economic Development Committee**

---

TRIM REFERENCE: F2012/01905 - D03196077

MANAGER: David Jack, Director Corporate Services

AUTHOR: Lesley Crawley; Manager Corporate Governance

### **SUMMARY**

Election of Chairperson and minutes of the Employment and Economic Development Committee.

### **RECOMMENDATION**

- 1 That Council receive the minutes of the Employment and Economic Development Committee meeting held on 21 November 2012.**
- 2 That the Council amend the Wyong Shire Employment Study and Industrial Land Audit to qualify the actual available land and detail of the degree of constraints.**
- 3 That Council remove the proposed Jilliby West long term industrial area from the Wyong Shire Employment Study and Industrial Land Audit as potential employment land, due to the existing Council resolution to support this land as rural residential.**
- 4 That Council on behalf of the Committee thank Dart Energy for their presentation on coal seam gas and request Dart Energy and AGL to provide the Employment and Economic Development Committee a thorough benefits analysis including employment opportunities.**
- 5 That Council undertake a review of its DCP's and standard conditions of development consent and that key industry stakeholders be invited to make written submissions.**
- 6 That Council underwrite the Central Coast Mariners bid to secure David Beckham's recruitment to a maximum of \$100,000, subject to matching funding from Gosford City Council and subject to satisfactory agreements maximising the benefits to Wyong LGA.**
- 7 That Council note the draft Incentive Policy for Iconic Development on Key sites was endorsed by the EEDC.**
- 8 That Council exhibit the draft Incentive Policy for Iconic Development on Key sites.**
- 9 That Council request the current Economic Development strategies from Ipswich City Council, City of Ryde Council, Parramatta City Council, Hills District Council and Mandurah Council to be reported to its EED Committee.**

DRAFT



- 11 *That Council undertake a survey of community attitudes towards development, employment and related issues with the survey topics to be determined by the General Manager and Mayor and report on the results of the survey to the EEDC.*
- 12 *That Council elect Councillor Eaton as an additional member of the Employment and Economic Development Committee.*

## BACKGROUND

A meeting of the Employment and Economic Development Committee was held on 21 November 2012. The minutes of that meeting are attached.

Council has not delegated its authority to the Committee to make decisions on its behalf nor does the Committee have the authority to direct staff. Accordingly those recommendations of the Committee outside its delegation are reported to Council for consideration.

### Committee Membership

Council at its meeting of 10 October 2012 elected the following membership to the Committee:

Cr Best as Chairperson elected by Council  
Cr Greenwald  
Cr Nayna  
Cr Troy  
Cr Webster

Section 267 of the Act provides:

***“267 Chairperson and deputy chairperson of committees***

*(1) The chairperson of each committee of the council must be:*

*(a) the mayor, or*

*(b) if the mayor does not wish to be the chairperson of a committee—a member of the committee elected by the council, “*

Accordingly should the Mayor not intend to be chairperson of the committee, but does wish to be a member, the Council must include the Mayor as a member of the Committee.

Given that membership to the Committee is for the term of Council, the Council, in making its decision, should also nominate whether it is electing the “Office of Mayor” to the Committee or if it is electing the current incumbent as the member.

The Mayor, Councillor Eaton has indicated that he will not be exercising his right as Chairperson of the EEDC therefore the Council should consider whether it wishes to elect Councillor Eaton as member of the EEDC.

## ATTACHMENTS

- |   |           |
|---|-----------|
| 1 Minutes of the Employment and Economic Development Committee meeting held on 21 November 2012 | D03195333 |
|---|-----------|

**WYONG SHIRE COUNCIL**

**MINUTES OF THE  
EMPLOYMENT AND ECONOMIC DEVELOPMENT COMMITTEE**  
HELD IN THE TIM FARRELL AND WILFRED BARRETT COMMITTEE ROOMS  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON 21 NOVEMBER 2012  
COMMENCING AT 4:00 PM

---

---

**PRESENT**

Councillors G P Best (Chairperson), D J Eaton (arrived 4:35 pm), K G Greenwald, L R Nayna, A Troy and L D Webster.

**IN ATTENDANCE**

Acting Director Land Management, Director Infrastructure Management, Manager Land Use and Planning, Manager Place Management, Manager Economic Property Development, Senior Strategic Planner, Senior Planner, and one administration staff.

The Chairperson, Councillor Best, declared the meeting open at 4.11 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

**APOLOGIES**

An apology for the inability to attend the meeting was received on behalf of Councillor Bob Ward, Gosford City Council and Garry McLachlan, Manager Property Development.

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

***That the Committee note the apologies from invited attendees.***

At the commencement of the ordinary meeting report nos 3.2, 3.1, 3.3, 3.4, 3.5, 3.6, 2.1 and 3.7. However for the sake of clarity the reports are recorded in their correct agenda sequence.

**1.1 Disclosure of Interest**

---

Councillor Eaton arrived at 4.35 pm and as a result took no part in voting.

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

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

FOR: COUNCILLORS BEST, GREENWALD, NAYNA, TROY AND WEBSTER

AGAINST: NIL

**2.1 Terms of Reference and Functionality**

---

**RESOLVED unanimously on the motion of Councillor TROY and seconded by Councillor NAYNA:**

**1 *That the Committee note the Terms of Reference for the Employment and Economic Development Committee adopted by Council on 14 November 2012.***

**2 *That the Committee reconsider this report at the 30 January 2013 meeting.***

FOR: COUNCILLORS BEST, EATON, GREENWALD, NAYNA, TROY AND WEBSTER

AGAINST: NIL

**3.1 Briefing on Wyong Shire Employment Study and Industrial Land Audit**

---

Councillor Eaton arrived at 4.35 pm during consideration of this item.

Councillor Eaton left the meeting at 4.43 pm and returned to the meeting at 4.44 pm during consideration of this item.

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

**1 *That the Committee receive the briefing on the draft Wyong Shire Employment Study and Industrial Land Audit by SGS and Council staff.***

**2 *That the Committee draw to Councils' attention the need to qualify actual available land and detailing the degree of constraints.***

**3 *That the Committee recommend the proposed Jilliby West long term industrial area be removed from the study as potential employment land, due to existing Council resolution to support this land as rural residential.***

FOR: COUNCILLORS BEST, EATON, GREENWALD, NAYNA, TROY AND WEBSTER

AGAINST: NIL

**3.2 Presentation on Coal Seam Gas**

---

Ms Kate Thompson – Land Access Manager and Mr Denzil Cross – Development Manager, representing Dart Energy, addressed the meeting at 4.14 pm, answered questions and retired at 4.27 pm.

**RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor TROY:**

- 1 That the Committee note the presentation given by Ms Kate Thomson from Dart Energy.**
- 2 That the Committee thank Dart Energy for their presentation and request Dart Energy and AGL to provide the Employment and Economic Development Committee a thorough benefits analysis including employment opportunities.**

FOR: COUNCILLORS BEST, EATON, GREENWALD, NAYNA, TROY AND WEBSTER

AGAINST: NIL

**3.3 DCP 2005 - Review of Chapters**

---

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

- 1 That the Committee receive the report on DCP 2005 - Review of Chapters.**
- 2 That the Committee recommend to Council the key industry stakeholders be invited to make written submissions on the DCP's and also on standard conditions of consent.**

FOR: COUNCILLORS BEST, EATON, GREENWALD, NAYNA, TROY AND WEBSTER

AGAINST: NIL

**U1/12 Central Coast Mariners Bid - David Beckham**

---

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

**That the Committee recommend that Council underwrite the Central Coast Mariners bid to secure David Beckham's recruitment to a maximum of \$100,000, subject to matching funding from Gosford City Council and subject to satisfactory agreements maximising the benefits to Wyong LGA.**

FOR: COUNCILLORS BEST, EATON, GREENWALD, NAYNA, TROY AND WEBSTER

AGAINST: NIL