



Wyong
Shire
Council

CENTRAL COAST



The children at our Little Coast Kids Centres are showing their Olympic spirit. Their interest in the Olympic games has provided learning opportunities to establish a sense of sportsmanship, identity and belonging. Our six centres have been doing a range of activities such as learning about the Olympic flag and the flags and cultures of different countries. They have also participated in races and medal presentations.

Wyong Shire Council

Business Paper

ORDINARY COUNCIL MEETING

08 August 2012

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MEETING NOTICE

The **ORDINARY COUNCIL MEETING**
of **Wyong Shire Council**
will be held in the **Council Chamber,**
Wyong Civic Centre, Hely Street, Wyong on
WEDNESDAY 8 AUGUST 2012 at **5.00 pm,**
for the transaction of the business listed below:

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

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10 QUESTIONS ON NOTICE ASKED

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

Michael Whittaker
GENERAL MANAGER

1.1 Disclosure of Interest

TRIM REFERENCE: F2012/00026 - D03071593

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge, Councillor Services Officer

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

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

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

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

RECOMMENDATION

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

1.2 Proposed Inspections and Briefings

TRIM REFERENCE: F2012/00026 - D03071642
MANAGER: Lesley Crawley, Manager Corporate Governance
AUTHOR: Jacquie Elvidge; Councillor Services Officer

SUMMARY

There were no Inspections scheduled for the 1 August 2012.

Briefings proposed for 8 August 2012 and future meetings to be held in the Wilfred Barrett and Tim Farrell Committee Rooms:

Date	Briefing	Presented By
8 August 2012	North Wyong Industrial Precinct - Pre Exhibition	Manager Land Use Planning and Policy Development and Senior Strategic Planner
8 August 2012	Transfer of Vegetation Control from Roads & Stormwater to Open Space	Manager Open Space
8 August 2012	Open Burn Policy	Environment and Planning Services Staff - TBA
8 August 2012	Employment Lands Study (findings)	Consultants, Manager Land Use Planning and Policy Development and Senior Strategic Planner
8 August 2012	Fishermans Wharf Update	General Counsel

RECOMMENDATION

That Council receive the report on Proposed Inspections and Briefings.

ATTACHMENTS

- 1 Proposed Briefing Schedule - 8 August 2012 D03084987

Proposed Quarter	PROPOSED DATE	Briefing Title	Director	STAFF PRESENTING
3rd qtr	8 Aug	Nth Wyong Industrial Precinct - Pre exhibition	Environment and Planning Services	Martin Johnson / Jonathan Luke
3rd qtr	8 August 2012	Transfer of vegetation control from Roads & Stormwater to Open Space	Community & Recreation Services	Brett Sherar
3rd qtr	8 August 2012	open burn policy	Environment and Planning Services	
3rd qtr	8 aug	Employment Lands Study(findings)	Environment and Planning Services	Consultants/Martin Johnson/Jonathan Luke
3rd qtr	8 August 2012	Fishermans wharf update	General Counsel	
3rd qtr	22nd August	Q4 Report - Strategic Plan and Financial Update	Corporate Services	
3rd qtr	22 August 2012	Acquisition of Crown Land Tuggerah (pioneer diary)	corporate services	Brett Phillips
3rd qtr	22 August 2012	Green Paper - <i>A New Planning System for New South Wales</i>	Environment and Planning Services	MARTIN JOHNSON
3rd qtr	22 August 2012	plan of management central coast caravan parks	Community & Recreation Services	Tara Mills
3rd qtr	22nd August	Wyong Race course expansion -environmental studies	corporate services	Brett Phillips
3rd qtr	22 AUG	Ausgrid (NOM 9.2 9 May 2012)	Environment and Planning Services	Ausgrid
3rd qtr	after elections	Employment Lands Study workshop (Pt II)	Environment and Planning Services	Consultants/Martin Johnson/Jonathan Luke
3rd qtr	after elections	Affordable Housing Study - Pre exhibition	Environment and Planning Services	Martin Johnson / Melati Lye
		Azzurro Blu Lease	gm'S UNIT/Corp Services	Brian Glendenning/Brett Phillips
3rd qtr	Sept	PRECINCTS	Community & Recreation Services	Julie Vaughan
4th qtr	New Councillors	Urban Design Principles & Concepts	Environment and Planning Services	Paul Bowditch / Ana Lage
4th qtr	after elections	Porters Creek Floodplain Risk Management Plan	Infrastructure Management	Robert Fulcher
4th qtr	October	Full introduction CCWC for the new Council	Corporate Services/	Lesley Crawley
4th qtr	Oct/Nov	Tuggerah Lakes Floodplain Risk management Study and Plan	Infrastructure Management	Robert Fulcher
4th qtr	Oct	GM's quarterly expense report	GM unit	
4th qtr	Oct	RZ/7/2009 Chittaway Point Rezoning	Environment and Planning Services	Martin Johnson/Kathryn Heintz
4th qtr	Oct	Precinct 7A Masterplan - Feedback following exhibition	Environment and Planning Services	Scott Duncan / Chris Ferry
4th qtr	Oct	Frank Ballance Park Design	Environment and Planning Services	Paul Bowditch / Ana Lage
4th qtr	Oct	Customer Service Charter	Community & Recreation Services	Sue Ledingham
4th qtr	10-Oct	2011/12 Financial Statements - presented by CFO	Corporate Services	CFO
4th qtr	oct/nov	Bushfire Works Plan	Environment and Planning Services	Greg White
4th qtr	10 October 2012	Comprehensive LEP PRIOR TO exhibition	Environment and Planning Services	Martin Johnson
4th qtr	Nov	mid year performance review	Corporate Services	
4th qtr	28-Nov	Q1 Report - Strategic Plan and Financial Update	Corporate Services	
4th qtr	14-Nov	Dart Energy - Presentation to Council	Infrastructure Management	Greg McDonald
4th qtr	End of Dec	Norah Head Boat ramp Part 3	Community & Recreation Services	Tara Mills/ Tim Burch

Proposed Quarter	PROPOSED DATE	Briefing Title	Director	STAFF PRESENTING
2nd Qtr		Iconic Development Site No 16 - 216-222 Main Road & Rowland Terrace, Toukley	Environment and Planning Services	Paul Bowditch / Jonathan Luke
3rd qtr		Central Coast Taxis	Infrastructure Management	Bob Burch
2nd Qtr		Natural Resources Strategy	Environment and Planning Services	Greg White
3rd qtr		Provide update of plans and financial viability of The Art House and Cultural Development	Community & Recreation Services	Julie Vaughan
3rd qtr		Draft Shire-Wide Contributions Plan	Environment and Planning Services	martin Johnson/David Kitson
3rd qtr		Toukley Town Centre Masterplan	Environment and Planning Services	Paul Bowditch / Gary Hamer
3rd qtr		Industrial Land and employment Lands study - Post exhibition	Environment and Planning Services	Martin Johnson / Jonathan Luke
4th qtr		Wyong Employment Zone - results of DCP and S94 Contributions Plan/Biocertification update, DCP amendment update	Environment and Planning Services	Martin Johnson
		Sea Level Rise Notification & 149 Certificate	General Counsel/Environment and Planning Services	Brian Glendenning/Martin Johnson/Rod Mergan

1.3 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2012/00026 - D03071653

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge, Councillor Services Officer

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 25 July 2012.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 25 July 2012.

ATTACHMENTS

1 Minutes - Ordinary Meeting - 25 July 2012 D03077747

WYONG SHIRE COUNCIL

**MINUTES OF THE
ORDINARY COUNCIL MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 25 JULY 2012
COMMENCING AT 5.00 PM**

PRESENT

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

IN ATTENDANCE

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

Manager Development Assessment, Manager Place Management, Senior Strategic Planner, Principal Transport Engineer, Planner Land Use Planning, Communications and Marketing Coordinator and two administration staff.

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

Councillor McBride advised that she recently attended the 44th annual Netball NSW State Age Championships held at Baker Park Wyong on behalf of the Mayor. Councillor McBride thanked the Director of Community and Recreation - Maxine Kenyon and the Manager of Sport Leisure and Recreation - Tara Mills, who were also in attendance. The General Manager - Michael Whittaker, Chris Miles, Frank Passmore and Executives of Wyong District Netball Association, The Chamber of Commerce and Wyong Community Bendigo Bank were also acknowledged for their contributions.

Councillor Graham advised that he recently attended a fundraising event at Shelley Beach Golf Club, held by the NSW Police Force – Tuggerah Lakes Local Area Command, to raise money for David Rickson, who was tragically killed on duty, and the Solomon Islands Community Health and Development Project; \$2,200 was raised on the day. Councillor Graham thanked Civic Centre Concierge - Mr John Hardwick who volunteered on the day and presented John with a plaque.

Councillor Graham welcomed Elise Gunner, a reporter for the local community news paper and Councillor Cherie Crawford and her delegation from Greater Shepparton Council in Victoria, who were in attendance in the Gallery.

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

APOLOGIES

There were no apologies.

At the commencement of the ordinary meeting report numbers 1.1, 1.3, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 3.3, 3.4, 3.5, 4.5, 4.6, 4.7, 6.2, 6.4, 6.7, 8.1, 8.2 and 8.3, were dealt with first then the remaining reports were adopted via the exception method. However for the sake of clarity the reports are recorded in their correct agenda sequence.

1.1 Disclosure of Interest**4.1 Minutes of 21 March 2012 and Draft Minutes of 21 June 2012 Wyong Shire Governance Committee**

Director Environment and Planning Services declared a non-pecuniary significant interest in the matter for the reason that a matter referred to in the report involves staff within the Environment and Planning Services Department and did not participate in consideration of this matter.

6.7 Investment Report for June 2012

Councillor McBride declared a non-pecuniary insignificant interest in the matter for the reason that she is a volunteer Director for Wyong Town Financial Services (Wyong Community Bendigo Bank) and participated in consideration of this matter.

Councillor McBride stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty."

8.2 Notice of Motion – Daily Traffic Jams Through Wyong Township

Councillor McBride declared a non-pecuniary insignificant interest in the matter for the reason that she is a volunteer Director for Wyong Town Financial Services (Wyong Community Bendigo Bank) and participated in consideration of this matter.

Councillor McBride stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty."

8.3 Notice of Motion – Job Crisis

Councillor Vincent declared a non-pecuniary significant interest in the matter for the reason that he is an employee of Delta Electricity, left the chamber at 8.08 pm, took no part in discussion, did not vote and returned to the chamber at 8.27 pm.

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

1/12 That Council receive the report on Disclosure of Interest and note advice of disclosures.

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

AGAINST: NIL

PROCEDURAL MOTION

SUSPENSION OF MEETING PRACTICE

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

2/12 That Council allow meeting practice to be varied.

3/12 That Council use the exception method to deal with the balance of the Agenda.

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

AGAINST: NIL

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

4/12 That Council adopt the recommendations contained in the remaining reports, with the exception of report numbers 1.3, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 3.3, 3.4, 3.5, 4.5, 4.6, 4.7, 6.2, 6.4, 6.7, 8.1, 8.2 and 8.3.

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

AGAINST: NIL

1.2 Proposed Inspections and Briefings

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

5/12 That Council receive the report on Proposed Inspections and Briefings.

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

AGAINST: NIL

1.3 Confirmation of Minutes of Previous Meeting

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm during consideration of this item.

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

6/12 That Council confirm the minutes of the previous Ordinary Meeting of Council held on 27 June 2012 and the Extraordinary Meeting of Council held on 28 June 2012.

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

AGAINST: NIL

BUSINESS ARISING

Councillor Eaton requested the Director of Environment and Planning, Gina Vereker, take on board that Council is concerned about the resolution of item 2.2 – DA/51/2012 – Additions and Alterations to Existing Dwelling at Mardi, not being complied with and would like to see the matter come to the next Council meeting.

1.4 Address By Invited Speakers

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

7/12 That Council receive the amended report on Invited Speakers.

8/12 That Council agree meeting practice be varied to allow reports from Directors and/or the General Manager to be dealt with following an Invited Speaker's address.

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

AGAINST: NIL

2.1 DA/607/2006/D Section 96(1A) Application for the Modification of Conditions relating to Public Access to the Roof Terrace Observation Deck, Azzurro Blu Wharf, The Entrance

Mr Jim Price, speaking on behalf of The Entrance Precinct Committee, addressed the meeting at 5.13 pm, answered questions and retired at 5.18 pm.

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

9/12 That Council defer a decision on this item.

10/12 That Council consider a report, at the 8 August 2012 Ordinary meeting, on the section 96 application based on ensuring the provision of unfettered access by the public to the roof top terrace.

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

AGAINST: COUNCILLOR EATON

2.2 DA/1457/2010/D - Section 96(1A) Application for the Modification of Condition 27 relating to Public Access to the Existing Roof Terrace Observation Deck, Azzurro Blu Wharf, The Entrance

Mr Jim Price, speaking on behalf of The Entrance Precinct Committee, was available to answer questions.

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

11/12 That Council defer a decision on this item.

12/12 That Council consider a report, at the 8 August 2012 Ordinary meeting, on the section 96 application based on ensuring the provision of unfettered access by the public to the roof top terrace.

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

AGAINST: COUNCILLOR EATON

2.3 DA/341/2012 - Detached Secondary Dwelling and Garage Including Demolition of Existing Garage at Noraville

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

13/12 That Council grant consent, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, subject to the conditions detailed in the schedule attached to the report.

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

AGAINST: NIL

2.4 DA/346/2012 - Proposed Detached Secondary Dwelling at Woongarra

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

14/12 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.

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

AGAINST: NIL

2.5 Planning Proposal - RZ/6/2012 - Key (Iconic) Development Site No 2 - Klumper Site, The Entrance

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

15/12 That Council initiate the Planning Proposal to amend Wyong Local Environmental Plan (WLEP) 1991 in accordance with Section 55 of the Environmental Planning and Assessment Act 1979, by endorsing the planning proposal prepared by the applicant.

16/12 That Council forward the Planning Proposal to the Director General, Department of Planning and Infrastructure requesting a 'Gateway' determination, pursuant to Section 56(1) of the Environmental Planning and Assessment Act 1979.

17/12 Subject to the Director General's approval, that Council undertake community consultation on the Planning Proposal, in accordance with the Gateway Process and Director General's direction,.

18/12 That Council request the Department of Planning and Infrastructure to prepare the draft Local Environmental Planning Instrument and that the Minister be requested to make the plan, subject to there being no objections received that cannot be resolved by minor amendments to the Planning Proposal.

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

AGAINST: COUNCILLOR WYNN

2.6 Tuggerah Town Centre State Significant Site

Councillor Vincent left the meeting at 5.51 pm and returned to the meeting at 5.59 pm during consideration of this item.

Mr Matt Healy, Development Executive representing Westfield Development, addressed the meeting at 5.56 pm, answered questions and retired at 6.03 pm.

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

19/12 That Council receive the report on the Tuggerah Town Centre State Significant Site.

20/12 That Council authorise the General Manager to execute the Offset Agreement that will include the dedication by Westfield of its environmental lands to the south of Westfield Tuggerah Shopping Centre.

21/12 That Council advise the Department of Planning and Infrastructure upon execution of the Offset Agreement.

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

AGAINST: NIL

3.1 CPA/181540 - Hire of Tipping and Other Trucks

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

22/12 That Council accept all conforming tenders received for a period of up to 2 years with a 1 year Principal actionable extension for Contract CPA/181540 – Hire of Tipping and Other Trucks.

23/12 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.

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

AGAINST: NIL

3.2 CPA/181543 - Hire of Plant and Machinery

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

24/12 That Council accept all conforming tenders received for a period of up to 2 years with a 1 year Principal actionable extension for Contract CPA/181543 – Hire of Plant and Machinery.

25/12 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.

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

AGAINST: NIL

3.3 CPA/200746 - Asphaltic Concrete - Category One - Supply Only

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

26/12 That Council decline to accept all tenders for the supply of Asphaltic Concrete Category One – Supply only, in accordance with the Local Government (General) Regulation 2005 Clause 178 (1) (b).

27/12 That Council cancel the proposal for the contract for the supply of Asphaltic Concrete Category One – Supply only, in accordance with the Local Government (General) Regulation 2005 Clause 178 (3) (a).

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

AGAINST: NIL

3.4 CPA/209236 - Construction of Concrete Pile Retaining Wall at Alison Road, Wyong

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

28/12 That Council decline to accept any of the tenders.

29/12 That Council cancel the proposal for the contract.

30/12 That Council decline to invite fresh tenders because the market has responded and no further commercial advantage to Council would be expected.

31/12 That Council note that staff will investigate if a more cost effective design that mitigates to an acceptable level the risk of collapse of the river bank and its associated public road and utility infrastructure into Wyong River can be identified.

32/12 That Council note in the event that such a solution can be identified that Council staff will project manage the works directly by calling a number of smaller contracts for the various packages of work with the aim to more effectively manage the risks presented by this work.

33/12 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.

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

AGAINST: NIL

3.5 CPA/211385 - Expressions of Interest for Central Coast Pumps and Pipes Panel

Councillor Vincent left the meeting at 6.25 pm and returned to the meeting at 6.26 pm during consideration of this item.

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

34/12 That Council defer this matter for further information on consideration of local content in this tender panel.

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

AGAINST: NIL

4.1 Confirmed Minutes of 21 March 2012 and Draft Minutes of the 21 June 2012 Wyong Shire Governance Committee meetings

Director Environment and Planning Services declared a non-pecuniary significant interest in the matter for the reason that a matter referred to in the report involves staff within the Environment and Planning Services Department and I will not participate in consideration of this matter.

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

35/12 That the Council adopt the minutes of Ordinary and Confidential Sessions of the Wyong Shire Governance Committee Meeting held 21 March 2012 which were confirmed by the Committee on 21 June 2012.

36/12 That Council receive the draft minutes of the Wyong Shire Governance Committee Meeting held on 21 June 2012.

37/12 That Council note the Committee recommendation from 21 June 2012 meeting regarding Item 2.5 Strengthening Stores/Procurement Organisational Structure and request that the General Manager direct staff to:

- a continue to implement a phased change process over the next 12 months that includes revision of controls, corporate reporting, structural reporting lines, delegations and store operations.**
- b consider that probity includes the concepts of impartiality, integrity, confidentiality, fairness, conflicts of interest and transparency noting that value for money is dealt with under best value.**

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

AGAINST: NIL

4.2 Payment of Public Liability Professional Indemnity Insurance Policy

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

38/12 That Council approve the renewal of Council's Public Liability/Professional Indemnity insurance policy with Statewide Mutual for the period 30 June 2012 to 30 June 2013.

39/12 That Council approve the premium payment of \$493,591 ex GST.

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

AGAINST: NIL

4.3 Contract Variations and Finalisation - June 2012

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

40/12 That Council receive the Contract Variations and Finalisation for June 2012.

41/12 That Council notes additional expenditure above resolved estimates for the following contracts:

Contract Title	Contract No	Adjusted Contract Value (Excl GST)	Additional Budget Approval (Excl GST)
Hire of Minor Plant and Equipment	CPA/145091	\$2,728,420.00	\$228,420.00
Sludge Dewatering of No. 2 Sludge Lagoon at Charmhaven STP and No. 1, No. 2, and No. 3 Sludge Lagoons at Mannering Park STP	CPA/190437	\$226,599.00	\$11,822.00

42/12 That Council note the additional expenditures requested are within approved program budgets.

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

AGAINST: NIL

4.4 Community Engagement Policy

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

43/12 That Council adopt the draft Engagement Policy as a standard for all community engagement activities and that community engagement is a component of all future planning and project management.

44/12 That Council note the implementation of the policy will be undertaken as a component of day to day business through Service Unit Business Plans.

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

4.5 Councillor Induction Program

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

45/12 That Council endorse for the consideration of the 2012-2016 Council:

- a the attached 2012 Councillor Induction Program with the following amendment:

- Scheduling of the Mayoral Election on 3 October 2012.**
- b that new and returning Councillors attend the mandatory sessions**
- c that the Facilities and Expenses Policy be amended to provide for professional membership of relevant associations for Councillors of up to \$2,000 per councillor, per annum.**
- d that the induction program include a variety of delivery/training methods and be tailored to suit individual Councillor requirements.**

46/12 That Council provide a copy of the Program to interested candidates for the 2012 Local Government Election.

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

4.6 Election of Chairperson for Status of Women Advisory Committee

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

47/12 That Council endorse the proposed Chairperson of the Status of Women Advisory Committee as Councillor Lisa Matthews, for the remainder of the 2012 term, to conduct business in accordance with the Committee Terms of Reference.

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

4.7 Central Coast Regional Organisation of Councils Sporting and Cultural Sponsorship

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

48/12 That Council continue to contribute \$35,000.00 to the Central Coast Regional organisation of Councils Sporting and Cultural Sponsorship program.

49/12 That Council delegate to the General Manager to negotiate with Gosford City Council the various changes to the program as outlined in this report.

50/12 That Council receive annual updates on the allocation of funds through this program.

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

5.1 2012 Company Directors Conference - Darwin 2012

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

51/12 That Council receive the report on AICD 2012 Company Directors Conference - Darwin 2012

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

6.1 Information Reports

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

52/12 That Council receive the report on Information Reports.

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

6.2 Annual Code of Conduct Complaints Reporting

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

53/12 That Council note the Annual Code of Conduct Complaints Reporting.

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

AGAINST: NIL

6.3 General Works in Progress

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

54/12 That Council receive the report on General Works in Progress.

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

AGAINST: NIL

6.4 Mardi to Mangrove Link Project Status

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

55/12 That Council receive the report on Mardi to Mangrove Link Project Status.

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

AGAINST: NIL

6.5 Results of Water Quality Testing for Beaches and Lake Swimming Locations

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

56/12 That Council receive the report on Results of Water Quality Testing for Beaches and Lake Swimming Locations.

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

6.6 Activities of the Development Assessment and Building Certification and Health Units

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

57/12 That Council receive the report on Activities of the Development Assessment and Building Certification and Health Units

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

6.7 Investment Report for June 2012

Councillor McBride declared a non-pecuniary insignificant interest in the matter for the reason that she is a volunteer Director for Wyong Town Financial Services (Wyong Community Bendigo Bank) and participated in consideration of this matter.

Councillor McBride stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty."

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

58/12 That Council receive the Investment Report for June 2012.

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

6.8 2012 Wyong Regional Chamber of Commerce Annual Business Awards

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

59/12 That Council note the approval granted by the Mayor and General Manager for any interested Councillor/s and partners to attend the 2012 Wyong Regional Chamber of Commerce Annual Business Awards function.

60/12 That Council meet reasonable expenses incurred by those interested Councillors and their partners attending the above function in accordance with Council's Facilities and Expenses Policy For Councillors.

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

AGAINST: NIL

6.9 Outstanding Questions on Notice and Notices of Motion

Councillor Vincent left the meeting at 5.11 pm and returned to the meeting at 5.12 pm and as a result took no part in voting on this item.

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

61/12 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.

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

AGAINST: NIL

8.1 Notice of Motion - State of the Environment Report (SOE) Peer Review

Councillor McNamara left the meeting at 7.07 pm and returned to the meeting at 7.08 pm during consideration of this item.

Councillor Webster left the meeting at 7.08 pm and returned to the meeting at 7.12 pm during consideration of this item.

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

1 That Council note the release of the annual 2011/12, State of the Environment (SOE) report and the alarming results particularly with regard to environmental outcomes ie major decline.

2 That Council formally review this document now.

- 3 That Council note that the SOE is compiled, assessed and reported upon by Staff.
- 4 That Council direct the General Manager to have the SOE report independently peer reviewed in recognition of the need for greater assessment, probity and governance.
- 5 That Council seek quotations/tenders to provide the independent review, in accordance with the WSC Procurement Policy.
- 6 That Council invite local university faculties to participate in the process.
- 7 That Council receive a report on the background and quotations/tenders prior to commencing with the procurement process.

The MOTION was put to the VOTE and declared LOST.

FOR: COUNCILLORS BEST, EATON AND MCNAMARA

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

8.2 Notice of Motion - Daily Traffic Jams Through Wyong Township

Councillor McBride declared a non-pecuniary insignificant interest in the matter for the reason that she is a volunteer Director for Wyong Town Financial Services (Wyong Community Bendigo Bank) and participated in consideration of this matter.

Councillor McBride stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty."

Councillor Matthews left the meeting at 7.39 pm and returned to the meeting at 7.43 pm during consideration of this item.

Mr John Barkley, resident, addressed the meeting at 7.30 pm, answered questions and retired at 7.37 pm.

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

- 1 That Council recognise the importance of delivering the Pacific Highway upgrade through Wyong, linking up with the new Tuggerah Straight works as this is an economically vital road corridor providing business and job opportunities.
- 2 That Council recognise that having regard to the State Government annual budgetary processes, the need to now facilitate its agreeance/concurrence on this road upgrade to meet the new budgetary cycle.
- 3 That Council give certainty to the hundreds of residents that live with the real prospect of the Pacific Highway upgrade bypass being funnelled through their residential streets, resulting in major loss of amenity, safety and property values/forced resumptions.
- 4 That Council formally give the RMS its support and concurrence for the through town Pacific Highway upgrade favouring the maximum parking option to assist local businesses and finally get this road started.

- 5 That Council request the General Manager to provide a report to Council in support of the RMS's preferred option along the existing Pacific Highway corridor that was exhibited in November 2011.
- 6 That Council note opportunity in the existing Pacific Highway corridor option to provide incremental improvements through the life of the project.

The MOTION was put to the VOTE and declared LOST.

FOR: COUNCILLORS BEST, EATON, MCNAMARA AND WEBSTER

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

8.3 Notice of Motion - Job Crisis

Councillor Vincent declared a non-pecuniary significant interest in the matter for the reason that he is an employee of Delta Electricity, left the chamber at 8.08 pm, took no part in discussion, did not vote and returned to the chamber at 8.27 pm.

Councillor Best left the meeting at 8.09 pm and returned to the meeting at 8.11 pm during consideration of this item.

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

- 1 That Council note with concern the local jobs at risk due to the carbon tax which unfairly discriminates in favour of dirty Victorian power stations.
- 2 That Council request Delta electricity to brief Council on its future, if any, in Wyong LGA including in particular, rumours of the closure of Vales Point power station.
- 3 That Council request the Federal Government to fund an industry assistance package for Wyong LGA to create alternative local employment.
- 4 That Council seek an urgent meeting with the State Minister for Energy to discuss the government's plans for Delta's lands and works and assurances as to Vales Point's future.

The MOTION was put to the VOTE and declared LOST.

FOR: COUNCILLORS BEST, EATON, MCNAMARA AND WEBSTER

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

QUESTIONS ON NOTICE

Q28/12 Fairness Test

Councillor Greg Best

F2004/07718

"I have received numerous representations from Mr Harris of Budgewoi advising that Council has rejected his claim for repairs to his vehicle as a result of a Council tree on Council land falling upon his vehicle. Personally I find it difficult to understand our position, as if this occurred through a shop awning failure or signage collapse damaging a parked vehicle the shop owner would be responsible. I table Mr Harris's correspondence of 25 July 2012 for your response?"

Q29/12 General Store Compliance
Councillor Greg Best
F2004/07718

“Mr General Manager,

I have received numerous representations with regard to the ongoing issue of compliance of a general store in Norah Head that now seats some 50-60 patrons “The General Store” can be booked online for functions or private gatherings, could you please outline how this activity has been able to be approved in a residential area under the guise of a general store? As this matter has been ongoing for some 6 months your response would be appreciated at your earliest convenience to assist those in question.”

THE MEETING closed at 8.28pm.

1.4 Address By Invited Speakers

TRIM REFERENCE: F2012/00026 - D03071658

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge, Councillor Services Officer

SUMMARY

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

RECOMMENDATION

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

1.5 Notice of Intention to Deal with Matters in Confidential Session

TRIM REFERENCE: F2011/01798 - D03050552

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge, Councillor Services Officer

SUMMARY

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

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

RECOMMENDATION

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

9.1 – Destruction of Natural Environment and Indigenous Heritage at Norah Head

2 That Council note its reason for considering item 9.1 – Destruction of Natural Environment and Indigenous Heritage at Norah Head, in confidential session as the report contains information concerning the nature and location of a place or an item of Aboriginal significance on community land.

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

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

“2(a) personnel matters concerning particular individuals (other than Councillors),

2(b) the personal hardship of any resident or ratepayer,

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

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

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

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

(iii) reveal a trade secret,

1.5 Notice of Intention to Deal with Matters in Confidential Session (contd)

- 2(e) information that would, if disclosed, prejudice the maintenance of law,*
- 2(f) matters affecting the security of the Council, Councillors, Council staff or Council property,*
- 2(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,*
- 2(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.”*

2.1 Mayoral Minute - Coastal Conference 2013

TRIM REFERENCE: F2010/00500 -
AUTHOR: Bob Graham; Councillor

The NSW Coastal Conference has been run as an annual event since 1990. The conference has grown to become one of the most successful coastal industry events held in Australia. It attracts between 300 to 400 participants throughout NSW and many from other states and can generate considerable media attention for the LGA and highlight current coastal issues. Its goal is to bring together professionals, representatives from local government, state agencies and the community for an intensive exchange of current information and research on vital issues for coastal communities.

NSW regional coastal councils take turns hosting the event which takes place in the first half of November each year. Traditionally at the end of each conference, Councils bid for the rights to host the conference in their LGA the following year.

In November 2011, Council put in a last minute bid for the 2012 conference but were unsuccessful as Kiama Council, the successful hosts for 2012, had put together a very comprehensive proposal. Supported by the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee, Council would like to put together a more substantial bid for the 2013 conference. Should we meet with success this time, the benefits to the Shire would be manifold and include showcasing our coastline, our tourist potential, and our coastal management practices since the adoption of the Coastal Zone Management Plan.

Currently, a committee is being established to put together a proposal and make the bid for the 2013 conference at the 2012 event in Kiama. Central Coast Tourism has been invited to join the bid committee to ensure that the application to host the event is successful, a role they have played during similar recent events.

I formally move:

That Council endorse the inclusion of those Councillors who are appointed to the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee post September 2012 to the committee for the preparation of the bid proposal for the 2013 Coastal Conference to be held in Wyong Shire.

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra

TRIM REFERENCE: DA/134/2012 - D03068977

MANAGER: Gina Vereker, Director

AUTHOR: Scott Rathgen; Team Coordinator

SUMMARY

An application has been received for the erection of a dwelling, two detached garages, and a detached 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) 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.

Applicant	Sjh Planning and Design
Owner	Melissa Jane Western
Application No	DA/134/2012
Description of Land	Lot 264 DP 1036768, No 96 Mataram Road Woongarra
Proposed Development	Dwelling, Two Detached Garages And A Detached Secondary Dwelling.
Site Area	3944m ²
Zoning	2E Urban Release Area and 1C Non Urban Constrained Land
Existing Use	Residential
Estimated Value	\$409,000

RECOMMENDATIONS

- 1 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.**
- 2 That Council advise those who made written submissions of Council's decision.**

PRECIS

- The site is zoned 2(e) Urban Release Area and 1(c) Non Urban Constrained Land under the provisions of the Wyong Local Environmental Plan 1991 (WLEP).
- The primary dwelling and detached garages comply with Development Control Plans (DCP) 2005, Chapter 99 Building Lines and DCP 2005 Chapter 100 Quality Housing.
- The detached 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

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

INTRODUCTION

The Site

The lot is 3944m² in area which is large for this residential locality. It slopes moderately to the rear and towards the drainage reserve on the eastern side of the property. It adjoins a number of residential properties to the west and contains numerous mature trees.



Summary

An application has been received for the erection of a dwelling, two detached garages and a detached secondary dwelling.

The primary dwelling and detached garages are a permissible land use under the provisions of WLEP 1991 and the secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

The application has been referred to Council for determination solely based upon the Council resolution of 8th of February 2012, (in particular Resolution 6), that required all Development Applications for secondary dwellings be reported to Council to consider the waiving of the section 94 contributions which states:

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

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

- “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

The approval of the dwelling, detached garages and detached 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

There are no variations to Councils DCP'S or the development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009.

HISTORY

The land is a remnant parcel as the result of subdivision of the parent allotment. The land is unimproved.

Development Consent No. 259/2007 was granted on the 4th of July 2007 for a four lot subdivision of this property.

An initial assessment of the application was undertaken which revealed a number of inconsistencies, departures and two relevant submissions. Accordingly, the applicant was requested to clarify information which resulted in an amended redesign to overcome these issues.

On submission of the amended design and details the application was readvertised.

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

PERMISSIBILITY

The subject site is zoned 2E Urban Release Area and 1C Non Urban Constrained Land under the provisions of the WLEP 1991. The proposed dwelling and detached garages are permissible with consent and comply with the objectives of the zone. The secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

STATUTORY PROVISIONS and RELEVANT STATE/COUNCIL POLICIES AND PLANS

Council has assessed the proposal against the relevant provisions of the following Environmental Planning Instruments, Plans And Policies:

- Mines Subsidence Compensation Act 1961
- Rural Fires Act 1997
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- Wyong Local Environmental Plan 1991 (WLEP)
- Wyong Council Development Control Plan 2005:
- Chapter 99 - Building Lines.
- Chapter 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.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of the assessment of the application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope/combat/withstand these potential impacts.

The proposal is not subject to sea level rise, however is subject to bush fire and changing weather conditions. In considering climate change, the proposal has identified a suitable building opportunity that could sustain residential amenity beyond the likely effects of the risk of bush fire.

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.

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

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

Mines Subsidence Compensation Act 1961

The land is within a mine subsidence district and has been referred to the Mine Subsidence Board (MSB). The Board has subsequently stamped and approved the plans.

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 as per the objectives for the Planning for Bushfire Protection Guidelines(PBP) (NSW Rural Fire Service) and this has been referred to the RFS for comment. They have provided concurrence with the applicant’s mitigation report and included additional conditions for inclusion in any consent.

Wyong Local Environmental Plan 1991

Zoning Aims and Objectives

The land is split zoned 1(c) Non Urban constrained Lands and 2(e) Urban Release Area in Clause 10 of the WLEP 1991. This report focuses on the objectives of the 2(e) zoning by virtue of Clause 17 of WLEP 1991 and the fact that the development is wholly contained within the 2(e) zoned portion of the site.

“Clause 17

“Dwelling-houses: split zoned parcels

Notwithstanding any other clause of this plan, an allotment which is partly within one zone, being a zone other than Zone No. 1(d), 2(a), 2(b), 2(c), 2(d) or 2(g), and partly within another zone may be treated for the purposes of the erection of a dwelling-house as being a singular zoned allotment within either of those zones for the purposes of clause 16.”

The objectives contained within the zoning table in the WLEP 91, for the “2(e) Urban Release Area” portion of the allotment are;

Objectives of zone

The objectives are:

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

- “(a) to cater for a range of housing types appropriate to a greenfield urban release area and not exceeding a height of 2 storeys, 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 any raw material, equipment, machinery, product or stored finished goods, or*
 - (ii) have a material adverse impact on residents, and*
- (d) to ensure development includes appropriate water sensitive urban design.”*

All the proposed buildings are situated within the 2(e) portion of the land. The 1(c) Non Urban Constrained Land portion of the land that extends along the eastern side of the property has been identified for a future cycleway.

The proposed development is residential in nature and wholly complies with all of the relevant development controls for this scale of development. The proposed dwelling location does not detract from the environmental or scenic quality of the land and is not regarded as a risk from natural hazards. The proposed form of the buildings is consistent with that of the residential nature of the locality.

Accordingly it is concluded the objectives of the zone have been met.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The SEPP (Affordable Rental Housing) 2009 permits secondary dwellings up to a maximum floor area of 60m². The secondary dwelling proposed has a floor area of 60m². The subject allotment also exceeds the minimum area of 450m².

Under these circumstances the proposed secondary dwelling is justified.

Council’s Development Control Plan 2005

Chapter 99 - Building Lines.

The Road category is classified as “C” which requires the front setback where applicable to be 4.5 metres to the dwelling and 6.0 metres to the attached garage. These setbacks have been complied with.

Side and rear setbacks generally comply with the requirements of DCP Chapter 99.

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

Chapter 100 - Quality Housing

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

Section 3.3 Site Preparation and Management.

All fill on the allotment is contained within the footprint of the dwelling by utilizing brick fender walls or is not closer than 900mm and not greater than 600mm in height. As such the extent of fill does not exceed the prescriptive requirements of Clause 3.3.3(g)

Section 3.4 Streetscape

The design and location of the proposed development has regard to the character of existing development-including materials, setbacks, height and style.

The proposed development incorporates suitable design features to achieve an acceptable facade to each street elevation.

Section 3.5 Building Materials

The materials of the proposed addition integrate and compliment 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 and in particular there unbroken length of wall that exceeds 10 metres in length when viewed from a public place.

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 de-minimus.

3.7 Trees

It is noted that the land is to be cleared. This will require the removal of a number of saplings and several large trees. There are not any threatened, endangered or keystone species identified in Chapter 14 Tree Management that are proposed for removal for this development.

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

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.

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

The garage doors do not constitute more than 50% of the lineal frontage of the building fronting the street.

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 alterations and additions to the existing dwelling and the secondary dwelling are consistent with the scale and character of the local area. The scale, bulk, height, massing and choice of materials and finishes for the proposed primary and secondary dwellings are considered appropriate to the local context and will enhance the streetscape.

The access, transport and traffic management measures

Access to the site is proposed across the road reserve to Mataram Road. A four (4) car detached garage is provided at the rear of the premises. This arrangement is not out of character and is considered appropriate given the scale of the development.

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 and secondary dwelling would not be detrimental to the adjoining properties or those within the close proximity of the development in relation to the above matters and any effect is considered minimal.

The impact on utilities supply.

Existing services have been provided to the site to cater 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 on site to 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.

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

Any effect on the flora and fauna.

The proposed development would result in the removal of approximately 23 native trees of varying size and maturity. Development application No 259/2007 for a four lot subdivision included a Flora and Fauna impact assessment. This proposal also involved the removal of the trees on the property, however the report concluded that that development would not result in a significant impact upon threatened species populations and endangered ecological communities.

Council's Tree assessment Officers has reviewed the application and has concluded that although a large amount of native trees would be removed it is acceptable in this case. Conditions would be imposed to retain trees that are at a greater distance than 3 metres from a building and 1 metre from a driveway. Under these circumstances the impact upon Flora and Fauna 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 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 minimum amount noise and vibration will be created during the construction phase which is a normal situation in residential areas. A condition will be placed on the consent restricting the hours that construction work can take place. The operations of the development such as human interaction and vehicular movement on and off the land are considered consistent with that of a residential use in the locality and wider community.

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

The property is classified as "bushfire prone land" and accordingly a Bushfire Risk Assessment has been undertaken. This assessment has concluded that the development can achieve compliance with the relevant requirements of the 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 to protect environmental damage and the control of noise will be restricted between certain hours as conditioned in the development consent.

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

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 result in a detrimental impact to the surrounding properties and promotes an orderly and economic use of the land.

It is considered the effect on the environment would be minimal and the proposed dwellings would compliment 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 2 submissions being received.

The matters raised are summarised and discussed as follows;

Doc. No	Summary of Issues	Response
D02956594 D03040628	The four car garage will be used for business or for residential use.	<p>Council required the applicant to submit a statutory declaration with words to the effect of</p> <p><i>“The detached 4 car garage will not be used or adapted for any business or commercial related activity. Such garage will only be utilised for residential uses in conjunction with the primary dwelling on the allotment.”</i></p> <p>In addition a condition will be imposed on the consent relating to the use of the detached garage being for residential purposes only. Council cannot prevent any illegal activity occurring but this could be controlled by compliance action if necessary.</p>

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

Doc. No	Summary of Issues	Response
D02956594 D03040628	The location of the four car garage would impact upon the amenity of the objector's property.	<p>The 4 car garage is proposed at a setback of 5.2 metres from the objector's common boundary. The objectors dwelling is setback a further 1.8metres from this boundary.</p> <p>This property is quite large for this residential area and it is not unreasonable for a larger garage under these circumstances particularly with the secondary dwelling. It is not unusual for residential properties to have a driveway in close proximity to the joint boundary and in this instance although 4 vehicles could be stored in the garage it is likely that it would also be used for storage and other uses that would not result in excessive vehicle movements.</p> <p>Under these circumstances the use would be consistent with that of a residential use in the locality and this is not a matter to prevent the approval of the development</p>
D02987422	Filling is proposed which would cause amenity issues	This was originally an issue and at Council's request the proposed development was redesigned removing this fill from the proposal. Accordingly this matter has been resolved. The objector was notified of the revised plans and no further objection was received.
D02987422	The development could result in an issue with fencing between the properties.	The rock retaining wall in question is situated wholly on the objectors land. Access for maintenance can be carried out from this side of any fence. Accordingly there is no issue with the placement of a fence in this location.
D02987422	Cycleway behind our property which is not yet complete and should have been, there is no provision on the DA for this path to be continued to join up on Mataram Rd.	Advice from Council's development engineer indicates that there is no nexus between dedication of this section of the allotment for inclusion into the bike path network and the residential development of the property. It is noted that if the land were subdivided that such dedication could occur.

The issues raised in the submission have been given a full and thorough consideration in the assessment of this application, however, they are not matters that require a redesign or refusal of the application.

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

Any submission from public authorities.

There are no submissions from public authorities.

OTHER MATTERS FOR CONSIDERATION

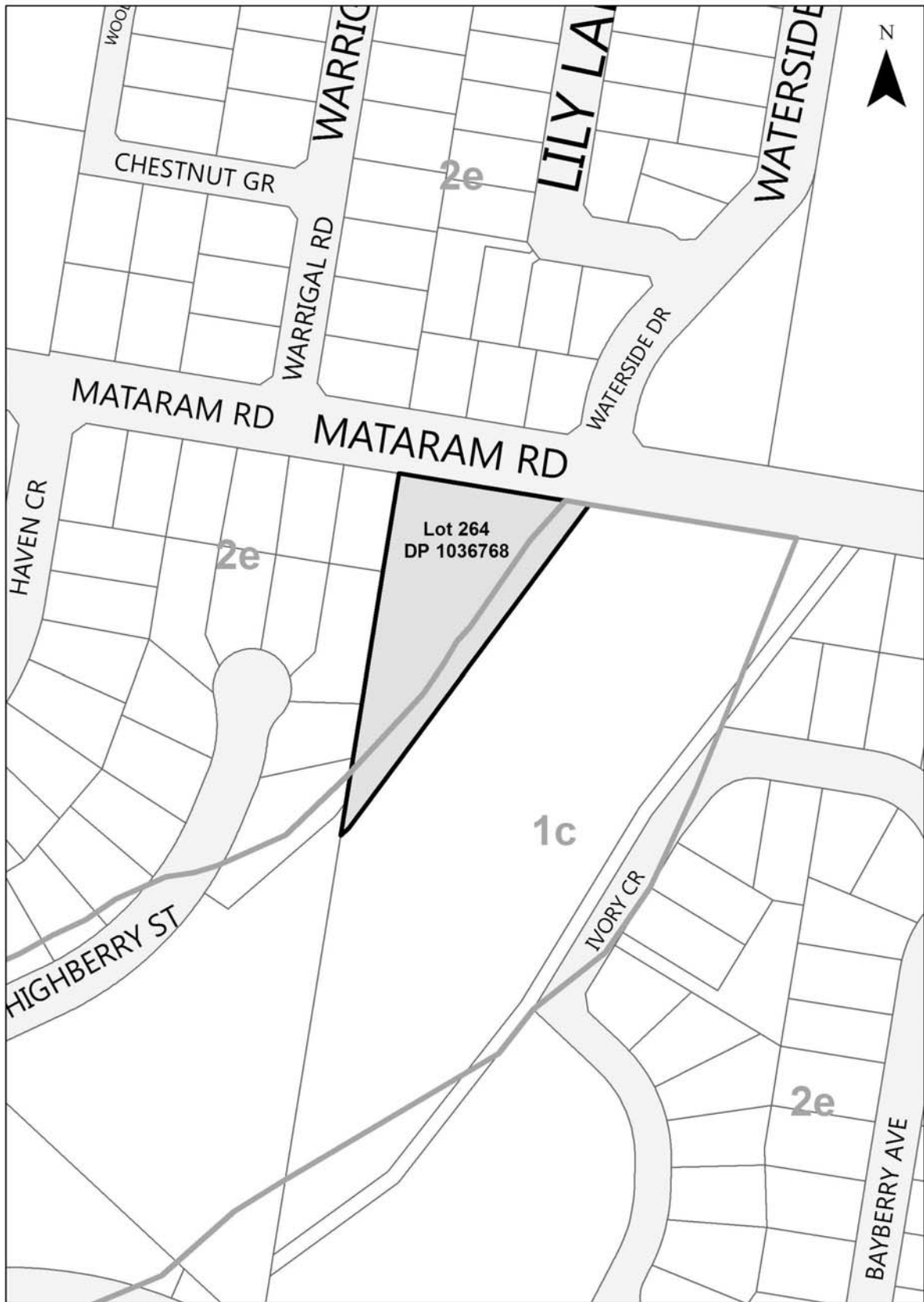
The property is within Council's Contribution Plan 7A S94 Contribution Plan created under the provisions of Section 94 of The EP&A Act 1979. Section 94 contributions are applicable under this plan to secondary dwellings as defined under the Affordable Housing SEPP. Under the contribution plan the secondary dwelling would generate section 94 Contributions totalling \$12,665.85. Under these circumstances, the application is reported to Council for the endorsement of the waiving of the Contributions.

CONCLUSION

The development application for a dwelling, two detached garages and detached secondary dwelling is compliant with the Rural Fires Act, the objectives of WLEP 1991, the standards of the relevant chapters of Council's DCP 2005 and the SEPP (Affordable Rental Housing) 2009. The application has been reported to Council for consideration of the waiving of the section 94 contributions and is recommended for approval.

3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarah (contd)

Locality Plan



3.1 DA 134/2012-Proposed Erection of a Dwelling, Two Detached Garages and a Detached Secondary Dwelling at Woongarra (contd)

ATTACHMENTS

- | | | | |
|---|-----------------------------|-----------|-----------|
| 1 | Draft Conditions of Consent | | D03069957 |
| 2 | Development plans (A3) | Enclosure | D03079872 |

Date: 17 July 2012
Responsible Officer: John Roseland
Location: 96 Mataram Road, WOONGARRAH NSW 2259
 Lot 264 DP 1036768

Owner: Mrs M J Western
Applicant: Sjh Planning & Design - Davistown
Date Of Application: 28 February 2012
Application No: DA/134/2012
Proposed Development: Dwelling, detached secondary dwelling & shed
Land Area: 3944.00

PROPOSED CONDITIONS

- 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
DA 134/2012	1021	-	5/5/2012	Legge Architects

- 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.

Trees

- 3 All trees that are no closer than 3 metres to an approved structure or 1 metre of the approved driveways are to be retained prior to the issue of a Construction Certificate. These trees are to be identified on the Plan.

Water and Sewer Services - Design Requirements

- 4 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.

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, 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.
- 7 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.
- 8 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

- 9 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

- 10 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

- 11 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.
- 12 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.
- 13 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.

- 14 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.
- 15 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.
- 16 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

- 17 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

- 18 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

- 19 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.
- 20 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

- 21 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

- 22 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.
- 23 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.
- 24 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.

Trees and Vegetation Protection

- 25 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 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*.
 - All fenced tree protection areas 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.

- 26 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.
- 27 Any approved excavation or filling within a retained tree's canopy perimeter shall be in accordance with AS 4970-2009 - *Protection of Trees on Development Sites* and Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development*, as excavation or filling can lead to tree instability or death.

Prior to Release of Occupation Certificate:

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

BASIX Requirements

- 28 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

- 29 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

- 30 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

- 31 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

- 32 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.

- 33 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%.
- 34 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

- 35 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

- 36 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.

Bushfire

- 37 Prior to the issue of an Occupation Certificate all recommendations contained within the Bushfire Hazard Assessment report prepared by Building Code and Bushfire Hazard Solutions Pty Ltd ref: 120165 dated 13 December 2011 are to be adhered to.
- 38 Water, electricity and gas are to comply with Section 4.1.3. of the Planning for Bushfire Protection 2006.

Ongoing Operation:

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

No Conditions

3.2 DA/51/2012 - Additions and Alterations to existing Dwelling at Mardi

TRIM REFERENCE: DA/51/2012 - D03079665

MANAGER: Jamie Loader, Manager Building Certification and Health

AUTHOR: Douglas Tytherleigh; Health and Building Surveyor

SUMMARY

An application has been received for additions and alterations to an existing dwelling at Mardi. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP& A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Emma Blake
Owner	Mr R Blake and Mrs L F Blake
Application No	DA/51/2012
Description of Land	Lot 4 DP 3368 No 65 McPherson Road, Mardi
Proposed Development	Additions and Alterations to an Existing Dwelling
Site Area	9466.00m ²
Zoning	1C Non Urban Constrained Lands
Existing Use	Dwelling

RECOMMENDATION

- 1 That Council note that the application is currently being publicly notified in accordance with the Notification Policy.***
- 2 Following the conclusion of the notification period, Council refuse the application having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, subject to appropriate reasons for refusal detailed in the schedule attached to the report and any additional reasons raised during the notification period.***

PRECIS

- The application seeks approval for a 40m² addition and alterations to an existing dwelling.
- The site is zoned 1C Non Urban Constrained Lands under the provisions of Wyong Local Environmental Plan 1991 (WLEP). A single dwelling is permissible with consent.
- There are currently two dwellings located on the subject property. Council is satisfied that the two dwellings on the property have the benefit of existing use.

3.2 DA/51/2012 - Additions and Alterations to existing Dwelling at Mardi (contd)

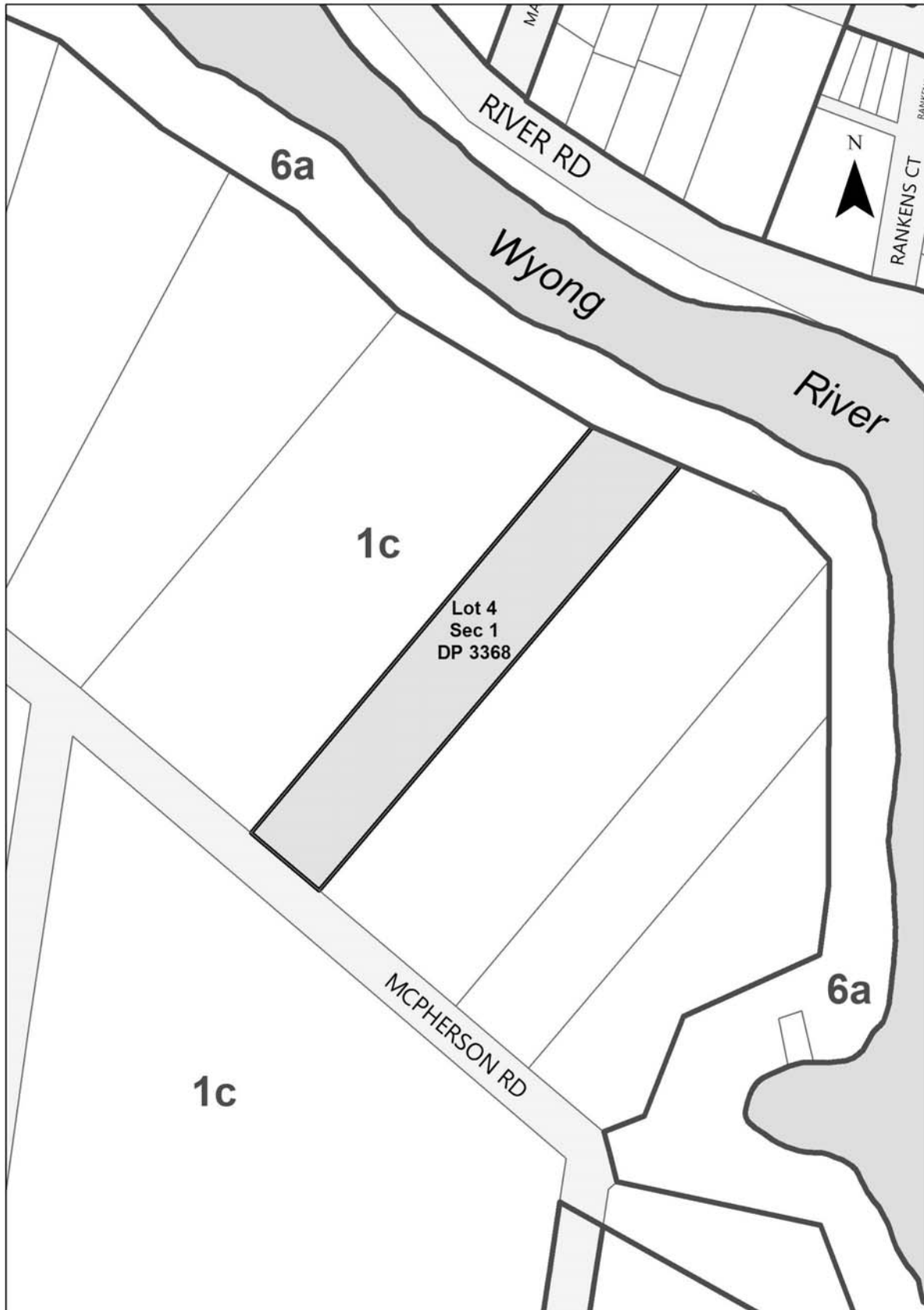
- The site is wholly flood affected.
- The Lower Wyong River Floodplain Risk Management Study indicates the 1% AEP flood level in the location of the proposed works as RL 5.4m AHD. During such a flood event the average velocity is approximately 1.0m/s and will result in inundation of 0.65 m above the floor of the proposed addition and a flood depth an average of about 1.9 m deep across the undeveloped parts of the subject site.
- Council's adopted flood hazard based on the 1% AEP flood of the Lower Wyong River Floodplain Risk Management plan categorises the site as High Hazard Floodway.
- Council's adopted development controls in the Lower Wyong River Floodplain Risk Management Plan, based on the zoning and hazard category, identify the land as being unsuitable for development and therefore the application cannot be supported.

INTRODUCTION

The Site

The subject site has an area of 9466.00m², is generally level and currently there are two dwellings located on the site. The Wyong River is approximately 35m away from the northern boundary of the lot and the property is significantly impacted by flood waters.

Existing development in the surrounding area comprises a mix of single and two storey dwellings, which are understood to have similar floor levels to the subject dwelling and accordingly would be subject to similar inundation during a significant flood event.



The Proposed Development

The proposal is for a 60m² addition to the existing residence that is adjacent to the eastern boundary of the property. The additions comprise of a lounge room, kitchen/dining room and a verandah to the southern end of the dwelling.

The major issue for consideration relates to flooding and the development controls in Council's Lower Wyong River Floodplain Risk Management Plan. The Lower Wyong River Floodplain Risk Management Study indicates the 1% AEP flood level in the location of the proposed works as RL 5.4m AHD. The existing floor level of the dwelling is 4.07 AHD and the proposed floor level of the addition is 4.75 AHD. The Plan identifies the land as being unsuitable for development.

VARIATIONS TO POLICIES

Standard	High Hazard Floodway
Policy	Lower Wyong River Floodplain Risk Management Plan
Departure basis	Not supported

Standard	10 metre side boundary setback
Policy	DCP2005 Chapter 99 Building Lines
Departure basis	A 3 metre setback is proposed which is a 70% variation to the standard.

HISTORY

Information supplied by the applicant, including aerial photographs from 1954, indicates that the two dwellings were in existence in the 1950s. Council issued an approval for a 1 bedroom addition to the subject dwelling adjacent to the eastern boundary in 1957 and in 1984 Council issued approvals for two septic tanks on the property.

Flooding records indicate that the property was inundated by floodwaters as follows;

1964 Approximately 4.4m AHD
1989 Approximately 3.8m AHD
2007 Approximately 3.4m AHD

Council at its meeting held on 25 June 2012 resolved on the motion of Councillor Eaton and seconded by Councillor Webster:

"That Council defer this item for consideration at the next Council meeting on the 25 July 2012. "

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

An amended design raising the floor level of the proposed addition by 680mm has been lodged and it is this proposal that is discussed within the body of the report.

PERMISSIBILITY

The subject site is zoned 1(c) (Non Urban Constrained Lands) under the WLEP 1991. A dwelling-house is permissible with consent. However, Clause 16(1) of WLEP permits the erection of a dwelling-house in the 1(c) zone only if the lot has an area of greater than 40 hectares or was in existence at the appointed day (15 February 1991). The lot has an area 9466m² however, was in existence prior to the appointed date. Under these circumstances dwelling alterations and additions are permissible.

The proposal is also an addition to a detached dual occupancy which is a prohibited development within this zone. However, the applicant has been able to demonstrate that both dwellings were in existence prior to the establishment of any planning instrument within Wyong Shire. Under these circumstances the continuance and reasonable embellishment of the existing non conforming use is permissible.

The three objectives of the 1 (c) Non Urban Constrained Zone are:

(a) to limit the development of land that may be affected by flooding, coastal erosion, slope, and other physical constraints (including lack of adequate water supply and sewerage), and

(b) to prohibit development that is likely to prejudice the present and future environmental quality of the land, and

(c) to ensure that development is carried out in a manner that minimises risks from natural hazards and does not detract from the scenic quality.

In regards to Objective (a), the property is located within the High Hazard Floodway where the 1% Annual Exceedance Probability (AEP) flood level is RL 5.40m AHD. The site has an average ground level of 3.5m AHD resulting in flood depths of up to 1.9 metres. Despite there being an existing dwelling on site, the existing dwelling has a possible construction life of 40 years. The approval of the addition could add to the overall life of the dwelling resulting in an estimated construction life of 70 years resulting in a further 30 years of residency on an allotment which is severely affected by flooding. This is inconsistent with the objective of limiting the development of land that is affected by flooding.

In regards to Objective (c) it is considered that the proposal, by being sited within a High Hazard Floodway, does not minimise risk but increases the risk of danger to the current and future occupants of the dwelling. The proposal does not provide a suitable safe haven within the dwelling nor does it address the provision of safe egress from the property during a flood event.

Clause 10(3) of the Wyong Local Environmental Plan 1991 states:

(3) Except as otherwise provided by this plan, the Council must not grant consent to the carrying out of development on land to which this plan applies unless, in the opinion of the Council, the proposed development is compatible with the objectives of the zone within which the development is proposed to be carried out.

Accordingly, it is considered that the proposed detached dwelling does not satisfy the objectives of the 1(c) Non Urban Constrained Lands Zone.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- State Environmental Planning Policy 71 – Coastal Protection
- Wyong Local Environmental Plan 1991
- Lower Wyong River Floodplain Risk Management Plan
- Development Control Plan 2005, Chapter 100 (Quality Housing)
- Development Control Plan 2005, Chapter 99 Building Lines

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered not 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. Due to the small scale of the development there would be a limited impact upon the flow of floodwater. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

However, the development, if approved, would not be sustainable and is not consistent with the overall objective of, Lower Wyong River Floodplain Risk Management Plan in particular:

- Inter-generational equity – the proposal does not have regard for maintaining the quality of the environment for future generations. The proposal would be highly vulnerable to risk of flooding which would potentially result in damage to the built environment and environs as the proposed structure is considered likely to be significantly damaged by flood waters and associated debris which would impact on the downstream environment.

State Environmental Planning Policy 71 – Coastal Protection

The provisions of SEPP No 71 Coastal Protection requires Council to consider the Aims and Objectives of the SEPP together with the matters for consideration listed in Clause 8 of the SEPP when determining an application within the Coastal Zone. The Coastal Zone is an area defined on maps issued by the DOPI (Department of Planning and Infrastructure) with the subject property falling within this zone.

The aims of the policy are:

- (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*

3.2 DA/51/2012 - Additions and Alterations to existing Dwelling at Mardi (contd)

- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) to ensure that the visual amenity of the coast is protected, and*
- (f) to protect and preserve beach environments and beach amenity, and*
- (g) to protect and preserve native coastal vegetation, and*
- (h) to protect and preserve the marine environment of New South Wales, and*
- (i) to protect and preserve rock platforms, and*
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991, and*
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- (l) to encourage a strategic approach to coastal management.*

The development is considered to be inconsistent with objective (j) and (l) as the proposal is inconsistent with Lower Wyong River Floodplain Risk Management Plan which provides a strategic approach to the management of those areas within the Plan that are also within the operation of SEPP 71.

Furthermore, the proposal has been considered against the matters listed under Clause 8. That assessment shows that the proposal fails to satisfy the matters:

- Clauses 8 (a) owing to its inconsistency with the abovementioned objectives;
- Clause 8 (d) owing to it being considered not suitable development because its type, location and design and its relationship with the surrounding area.

It is concluded that the proposal is inconsistent with several aims of SEPP 71 and does not satisfy certain matters listed under Clause 8 of SEPP 71.

Wyong Local Environmental Plan 1991

Clause 15 Development on land containing acid sulphate soils

Clause 15(2) states:

“15(2) A person must not, without the consent of the Council, carry out works described in the following Table on land of the class or classes specified for those works in that Table and shown on the Acid Sulfate Soils Planning Map, except as provided by subclause (4).”

The subject site contains Class 4 soils where works beyond 2 metres below the natural ground surface or works by which the watertable is likely to be lowered to any point beyond 2 metres below the natural ground surface require further investigation.

The construction of the dwelling additions would utilise concrete pad footings which would not have any implications for acid sulphate soils on this site.

3.2 DA/51/2012 - Additions and Alterations to existing Dwelling at Mardi (contd)

Clause 23 – Flood Prone Lands

Clause 23 requires the applicant to seek development consent for the erection of a building or carrying out of works on flood prone land in a number of zones including the 1 (c) Non Urban Constrained Lands Zone. The applicant has complied with this requirement.

In addition, Clause 23 allows Council to set a minimum floor height to a building or work to reduce the incidence of flooding if it determines to grant consent and in making that determination is to consider the effect of the proposed development on flooding. This effect is considered in under the heading “Lower Wyong River Floodplain Risk Management Plan” in a later section of this report.

Development Control Plan 2005 – Chapter 100 (Quality Housing)

Clause 3.8.3.of Chapter 100 states:

Requirements are to be applied in accordance with Council’s Floodprone Lands Development Policy.

The development does not comply with Council’s Lower Wyong River Floodplain Risk Management Plan (being the most up-to-date flood study). This is discussed in detail later in the report in the section titled Lower Wyong River Floodplain Risk Management Plan.

Development Control Plan 2005, Chapter 99 Building Lines

Chapter 99 stipulates a 10 metre setback to the side boundary for dwellings on rural zoned properties. The addition is proposed at a 3.0 metre setback which is a continuance of the wall of the existing dwelling. The dwelling on the adjoining property is sited approximately 50 metres from the location of this dwelling and it is concluded that the 7.0 metre extension to the dwelling would not have any significant impact upon the amenity of the adjoining property. Under these circumstances this variation is justified.

ASSESSMENT

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

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

Lower Wyong River Floodplain Risk Management Plan

The Wyong Shire LEP - 1991 only briefly mentions flood liable land to the extent that Council may fix building floor levels and consider the flood impact of development on surrounding properties. There is currently no DCP covering development of flood liable land within Wyong Shire, however Council has adopted the Lower Wyong River Floodplain Risk Management Plan which is applicable to this site.

3.2 DA/51/2012 - Additions and Alterations to existing Dwelling at Mardi (contd)

The principle source of flooding is from Wyong River with an upstream catchment of approximately 360 square kilometres. The property is considered to be fully flood affected by the 1%, 2% and 5% Annual Exceedance Probability (AEP) design flood events.

The 1% Annual Exceedance Probability (AEP) flood event is defined as the probability or likelihood that a location will experience a flood of a particular size, in any one year. If a location has a 1% chance of a particular sized flood occurring each year, then it can also be expressed as having a chance of that particular sized flood occurring once in 100 years. However, this does not mean that if a location experiences that particular size flood one year, it will definitely not experience the same sized again flood for the next 99 years. Nor, if it has not experienced a flood of a particular size for 99 years, will it necessarily occur the next year.

The predicted 1% AEP flood event (100 year ARI) affects the development to a level of 5.40 metres AHD, which is approximately 1.9 metres above the natural surface level at the location of the proposed dwelling. This is approximately 650mm above the floor level as highlighted in the attachment 3.

The Lower Wyong River Flood Plain Risk Management Plan classifies the site as High Hazard Floodway.

Floodways = those areas where a significant volume of water flows during floods which, even if only partially blocked, would cause a significant redistribution of flow.

In a floodway there are significant risks to safety due to the flood height and velocity. The limit of safe wading depth of approximately 0.8 metres would occur relatively quickly in this locality.

The later the decision is made for evacuation the more people in this area would require assistance. Evacuation by wading is generally not encouraged by emergency services personnel due to potential problems with uneven ground, submersed hazards, animal bites, mobility of the aged and children and the distance to safe ground. There is also a potential health issue with wading through flood waters as the NSW Department of Health has previously issued Public Health Warnings to treat all flood waters as contaminated. There is potential for flood water to contain untreated sewage, chemical contaminants or dead animal carcasses. The depth of flood waters and duration of inundation further exacerbates this issue. The time of day and weather conditions can also adversely affect evacuation.

Historical data and flood modelling indicating flood characteristics inhibiting access may be present for numerous days, with conditions close to peak remaining for approximately 24 hours in this area.

The flood-related development controls relevant to the site are contained within the *Lower Wyong River Floodplain Risk Management Plan (the Plan)*, which Council adopted at its Ordinary Meeting on the 27 October 2010. The adoption of the Plan, and thus the flood-related development controls contained within it, lead to the replacement of the development controls and requirements contained within Council's Policy F5 - *Flood Prone Land Development* for the Lower Wyong River catchment by those listed in the Plan.

The Plan was completed in accordance with the *NSW Floodplain Development Manual (2005)*.

3.2 DA/51/2012 - Additions and Alterations to existing Dwelling at Mardi (contd)

Following initial data collection, the *Lower Wyong River Floodplain Risk Study* was completed in 1991. The study analyses the Lower Wyong River catchment to determine flood flow characteristics. Based upon this technical assessment, the *Lower Wyong River Floodplain Risk Management Study* was prepared in 2009 to assess and map the flood hazards for the Lower Wyong River catchment and examine a range of flood mitigation options to manage or reduce the flood risk. Following consideration of all of the flood mitigation options presented in the Study, the *Lower Wyong River Floodplain Risk Management Plan* was prepared in 2009. The Plan identifies which mitigation options Council selected and adopted to improve floodplain management of the Lower Wyong River floodplain. Public consultation was completed with both the Risk Management Study and the Plan prior to adoption. Council does not have any record of the applicant for this development objecting to the Plan.

With the bulk of flood-liable land within the Lower Wyong River catchment already developed, the Plan concentrates on land use planning and development controls to mitigate future flood risk. These controls seek to balance social, economic, environmental and flood risk parameters to ascertain whether a particular development or use within the floodplain is appropriate and sustainable. An extract of the development controls applicable to the Lower Wyong River catchment has been reproduced below.

Type of Development	Flood Hazard Categories			
	Flood Fringe	Flood Storage		Floodway
		Low Hazard	High Hazard	
LAND ZONED RESIDENTIAL ^{(1) (2) (3) (4) (5) (6)}				
Concessional (see definition below)	On Merits	On Merits	On Merits	Unsuitable land use
Infill development			On Merits	
New Development			Unsuitable land use	
LAND ZONED COMMERCIAL / LIGHT INDUSTRIAL / INDUSTRIAL OR SIMILAR ^{(3) (4) (5) (6)}				
Concessional (see definition below)	On Merits	On Merits	On Merits	Unsuitable land use
Infill development			On Merits	
New Development			Unsuitable land use	
LAND ZONED RECREATION, OPEN SPACE, CONSERVATION ZONE, NON URBAN CONSTRAINED LANDS, SPECIAL USES ^{(2) (3) (4) (5) (6)}				
Structures, including buildings and filling	On Merits	On Merits	Unsuitable land use	Unsuitable land use
Other developments permissible in zone, i.e wetlands, playing fields, parks, walkways, etc...	On Merits	On Merits	On Merits	Unsuitable land use
REZONING TO MORE INTENSE LAND USE	On Merits	On Merits	Unsuitable land use	Unsuitable land use
ALL ZONE TYPES SUBDIVISION	On Merits	On Merits	Unsuitable land use	Unsuitable land use

3.2 DA/51/2012 - Additions and Alterations to existing Dwelling at Mardi (contd)

The development of a floodplain risk management plan enables the cumulative impacts of developments in floodplains to be considered, including the filling of land and the construction of structures. The resultant development controls for the Lower Wyong River catchment indicate that introducing additional fill and/or structures into the Lower Wyong River floodplain, particularly in the high hazard areas, is not a desirable outcome, and these areas have been assessed as “unsuitable for development”.

Based upon the proposed development being located upon land zoned ‘Non-Urban Constrained Lands’ and located within high hazard flood storage and high hazard floodway, the resultant development controls within the Plan do not support the proposed residential development.

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

The relationship to the regional and local context and setting

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

However the proposal does not meet the required Flood Planning Level of 5.9 metres AHD as required under the Lower Wyong River Floodplain Risk Management Plan. The depth of flood water over the site is 1.9m deep. If the proposal is constructed at the existing floor height the structure will be inundated by 0.65m of water with an expected velocity of 1.0m/sec or 3.6km/hr.

The access, transport and traffic management measures

No issues to report.

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

No issues to report.

The impact on utilities supply.

No issues to report.

The effect on heritage significance.

No issues to report.

Any effect on other land resources.

No issues to report.

Any impact on the conservation of water.

No issues to report.

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

The site is identified as having Class 4 soils according to the Acid Sulphate Soils Planning Map. Therefore there is a low probability of occurrence of acid sulphate soil materials within the soil profile.

Any effect on quality of air and microclimate conditions.

No issues to report.

Any effect on the flora and fauna.

No issues to report.

The provision of waste facilities.

No issues to report.

Whether the development will be energy efficient.

No issues to report.

Whether the development will cause noise and vibration.

No issues to report.

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

Flooding

As discussed earlier in the report, The Lower Wyong River Floodplain Risk Management Study indicates the 1% AEP flood level in this location of the proposed works as RL 5.4m AHD. The existing floor level of the dwelling is 4.07AHD and the proposed floor level of the addition is 4.75 AHD.

The historical flood information indicates the flood level reached RL 4.31 AHD (1964) 4 lots upstream and RL 3.08m AHD (1978) at the bridge.

The depth of flood water over the site in a 1% AEP event is 1.9m deep. If the proposal is constructed at the existing floor height the structure would be inundated by 0.65m of water at a velocity of 1.0m/sec or 3.6km/hr.

The applicant contends that the addition, if constructed at 4.75m AHD, would provide safe harbourage to the occupants; however the proposed floor level is still 0.65m below the 1% AEP flood level. When considering safe harbourage it is necessary to consider flood events greater than the 1%AEP flood which on this site is a Probable Maximum Flood level PMF of (6.16m AHD). The PMF is 1.41m above the proposed raised floor level and accordingly in the worst case scenario this proposal would not offer safe harbourage to the occupants.

3.2 DA/51/2012 - Additions and Alterations to existing Dwelling at Mardi (contd)

The design needs to consider the flood forces on the structure but would also need to consider impact forces from debris travelling down stream in the flood waters. With the proposed construction (clad timber frame) it may be cost prohibitive to have the new structure designed and built to withstand the flood forces. The existing structure probably has not been designed to withstand the flood forces and may compromise the new structures structural integrity.

Under these circumstances it is concluded that the site is so significantly impacted by flood waters that it is unsuitable for development. Approval of this development application in its current form would give rise to negative social and economic impacts, set an undesirable precedent and possibly result in liability issues for Council.

Any risks from technological hazards.

No issues to report.

Whether the development provides safety, security and crime prevention.

No issues to report.

Any social impact in the locality.

The proposed development is considered likely to have negative social impacts if it were to be approved by Council by placing both people and property at risk and vulnerable to flooding events. The applicant has not provided any evacuation plan for the occupants of the property.

Any economic impact in the locality.

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

Any impact of site design and internal design.

The site design is not considered appropriate in terms of the finished floor levels for habitable rooms. The proposed additions are below Council's Lower Wyong River Floodplain Risk Management Study and fail to achieve the Policy Statement's minimum flood planning level.

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

No issues to report.

Any cumulative impacts.

Allowing the proposed development contrary to The Lower Wyong River Floodplain Risk Management Study benchmarks would contravene Council's obligation to consider certain matters as specified in Section 79C of the Act, including the likely impacts of the development, ecologically sustainable development and the public interest.

3.2 DA/51/2012 - Additions and Alterations to existing Dwelling at Mardi (contd)

The consequences of Council failing to meet the requirements of the Lower Wyong River Floodplain Risk Management Plan is that Council may not have the statutory presumption that it has acted in good faith and hence may find it more difficult to establish a defence that is available to it under s. 733 of the Local Government Act 1993.

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

Whether the proposal fits in the locality.

As outlined earlier in this report, the proposed development is not considered suitable for the site given that the floor level does not adequately address The Lower Wyong River Floodplain Risk Management Study. The site is considered unsuitable for any additional residential development due to the extreme risk posed to occupants of the extended dwelling by flood heights and velocity coupled with an absence of safe haven or paths for safe evacuation.

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

Any submission from the public.

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

The amended proposal could have a greater or different detrimental effect on adjoining properties and accordingly under the provisions of Chapter 70 Notification Policy the amended proposal was notified to the adjoining landowners. The notification period does not expire until the 17th of August and accordingly the application cannot be determined until this date and any submissions are considered.

Any submission from public authorities.

No issues to report.

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

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

The information currently available to Council indicates that the site will likely be inundated if a designated flood event (1%AEP) occurs during the life of the proposed development.

Having assessed the proposal in accordance with Council's Flood Prone Land Development Policy, Lower Wyong River Floodplain Risk Management Study, the development is not considered suitable for the site.

CONCLUSION

The proposal has been assessed having regard to Section 79C of the EP&A Act, WLEP 1991, The Lower Wyong River Floodplain Risk Management Study and Plan, Chapter 100 (Quality Housing), DCP 2005, and is unable to be supported.

Based on the zoning objectives, flood hazard category and the associated development controls the application is not supported for approval.

ATTACHMENTS

- | | | | |
|---|--|-----------|-----------|
| 1 | Proposed Reasons of Refusal | | D03013201 |
| 2 | Development Plan showing Flood Level (A3 Colour) | Enclosure | D03081719 |
| 3 | Development Plans (A3 B&W) | Enclosure | D03081721 |

Date: 21 May 2012
Responsible Officer: Doug Tytherleigh
Location: 65 McPherson Road, MARDI NSW 2259
LOT 4 SEC 1 DP 3368
Owner: Mr R G Blake and Mrs L F Blake
Applicant: Miss E G Blake
Date Of Application: 25 January 2012
Application No: DA/51/2012
Proposed Development: Additions & alterations
Land Area: 9466.00

Reasons for Refusal

- 1 Pursuant to Section 79C (1)(c) of the Environmental Planning and Assessment Act 1979 the site is not considered to be suitable for the proposed development having regard to Council's Lower Wyong River Floodplain Risk Management Plan.
- 2 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposal is inconsistent with Clause 2 of State Environmental Planning Policy 71 (Coastal Protection) in the following manner:
 - a The proposed development fails to satisfy Aim 2(1)(j) in that it does not accord with the precautionary principle by proposing to site a dwelling in a high hazard flood area.
 - b The proposed development fails to satisfy Aim 2(1)(j) in that it does not promote inter-generational equity by proposing to site a dwelling in a high hazard flood area that may result in damage to the dwelling and injury or loss of life to future occupants.
 - c The proposed development fails to satisfy Aim 2(1)(k) in that it proposes to inappropriately locate a dwelling in a high hazard flood area which exposes the dwelling to damage and future occupants to danger.
 - e The proposed development fails to satisfy Aim 2(1)(l) in that the proposed development does not encourage a strategic approach to coastal management by proposing to site a dwelling in a high hazard flood area in disregard for the Lower Wyong River Floodplain Management Plan which provides strategic advice on the development potential of land within the Lower Wyong River catchment. This Plan identifies this site as unsuitable for buildings or structures.
- 3 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposal is inconsistent with Clause 8 "Matters for consideration" of State Environmental Planning Policy 71 (Coastal Protection) in the following manner:
 - a The proposed development fails to satisfy Matters for consideration 8 (a) because it does not satisfy Aims 2(1)(j), 2(1)(k) and 2(1)(l) as explained 1 above.

- b The proposed development fails to satisfy Matters for consideration 8(d) because it proposes to site a dwelling house in a high hazard flood area.
 - c The proposed development fails to satisfy Matters for consideration 8(j) because the development proposes to site a dwelling where the likely impact of coastal processes (flooding) on the proposed dwelling and future occupants is classified as “high hazard” under the Lower Wyong River Floodplain Management Plan”.
- 4 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposal is inconsistent with Wyong Local Environmental Plan 1991 Clause 2(g)(ii) because the proposed development seeks to locate a dwelling house in a flood prone area where it is likely to suffer damage and obstruct floodwaters.
- 5 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposal is inconsistent with the zone objectives (a), (b) and (c) of the 1(c) (Non Urban Constrained Lands Zone) in Clause 10 of Wyong Local Environmental Plan 1991:
- a The proposed development by proposing to site a dwelling in a high hazard flood area will not limit the development of the land.
- 6 Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposal is inconsistent with Development Control Plan 2005: Chapter 100 Quality Housing Clause 3.8.3.b because the proposed development is inconsistent with Council’s Floodprone Lands Development Policy which , in this area, is based upon the Wyong River Lower Floodplain Management Plan which identifies the site as unsuitable for buildings or structures.
- 7 Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposal is inconsistent with Development Control Plan 2005: Chapter 100 Quality Housing Clause 5.2.2 because the proposed development proposes to site the dwelling less than 40 metres from the bank of the Wyong River thus siting the dwelling further from areas of rescue. .
- 8 Pursuant to Section 79C (1)(b) of the Environmental Planning and Assessment Act, 1979 the development is at risk of flooding; would have a negative social and economic impact; does not respond to the specific site attributes and would contribute to the cumulative adverse impact on the environment by way of its unsuitable design for flood prone land.
- 9 Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 the proposal is not considered to be in the public interest given it does not adequately consider the impacts of flooding including the potential damage to the structure and the potential danger to future occupants and rescuers, and the development will set an undesirable precedent for the future.

3.3 DA/607/2006/D-Reconsideration of proposed Section 96(1A) for the modification of conditions relating to public access to the roof terrace observation deck, Azzurro Blu Wharf, The Entrance

TRIM REFERENCE: DA/607/2006/D - D03079606

MANAGER: Peter Fryar, Manager Development Assessment

AUTHOR: Emily Goodworth; Team Coordinator, Applications

SUMMARY

The development consent, the subject of this application, granted approval for a *Fisherman's Wharf Waterfront tourist and commercial development incorporating restaurants, retail tenancies, public facilities and boardwalk*. An application has been received under Section 96(1A) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* for the modification of Conditions 10 and 54 of development consent DA/607/2006/D relating to the provision of unrestricted public access to the roof terrace observation deck of the Azzurro Blue Wharf development, and the requirement for the observation deck to be open to the public when the restaurants are trading. The proposed modification also seeks approval for the erection and use of a security door to control access to the roof terrace observation deck.

Applicant	Sydney Civil Developments Pty Ltd
Owner	Wyong Shire Council
Application No	DA/607/2006/D
Description of Land	Lot 1 DP 1012476 & Lot 101 DP 1046474 (12) The Entrance Road, The Entrance
Proposed Development	Section 96(1A) for the modification of conditions relating to public access to the roof terrace observation deck and installation and use of a security door
Site Area	1,177.2m ²
Zoning	6(a) Open Space and Recreation
Existing Use	Restaurants and Function Centre
Estimated Value	\$2,500

RECOMMENDATION

That Council consider the matters detailed in the reports for DA/607/2006/D dated 25 July 2012 and 8 August 2012 and determine the application.

BACKGROUND

The Section 96 (1A) application for DA/607/2006 was considered at Council's Ordinary Meeting held 25 July 2012 as attached.

3.3 DA/607/2006/D-Reconsideration of proposed Section 96(1A) for the the modification of conditions relating to public access to the roof terrace observation deck, Azzurro Blu Wharf, The Entrance (contd)

Council at its meeting held on 25 July 2012 resolved on the motion of Councillor Wynn and seconded by Councillor Symington:

- "1 *That Council defer a decision on this item.*
- 2 *That Council consider a report, at the 8 August 2012 Ordinary meeting, on the section 96 application based on ensuring the provision of unfettered access by the public to the roof top terrace.*

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

AGAINST: COUNCILLOR EATON"

Having regard for resolution No. 2 above, the following report has been prepared for Council's consideration.

EXECUTIVE SUMMARY

Development Consent 607/2006 imposed two conditions, conditions 10 and 54, which required unrestricted public access to the roof terrace observation deck during operating hours of the development/whilst the restaurants were trading. It is these conditions which the applicant is seeking to amend under this Section 96(1A) application.

Condition 10 reads as follows:

- 10 *The public are to have unrestricted access to the observation deck during the operating hours of the development.*

Condition 54 reads as follows:

- 54 *The approved advertisement/s must be maintained in a presentable and satisfactory state of repair. Once completed the observation deck must be open to the public whilst the restaurants are trading.*

The applicant seeks to modify the conditions of consent (detailed above) to restrict public access to the roof terrace observation deck so that public access is available only between the hours of 8.00am - 5.00pm daily. The modification sought would allow for exclusive use of the area for tenant(s) and patrons of all premises within the development, between 5.00pm - 10.00pm, seven (7) days a week and would prohibit use of the roof terrace observation deck by any person between 10.00pm – 8.00am seven (7) days a week. The current situation entitles the public, tenant(s) and their patrons to have unrestricted access to the roof terrace observation deck during the operating hours of the development. It was previously recommended that the consent be modified to permit unrestricted access for the public to the roof top terrace between 8.00 am – 5.00pm (AEST) and 8.00am - 7.00pm (AEDT) seven (7) days a week for a twelve (12) month trial period.

The application also seeks approval for the erection and use of a security door that will provide the appropriate impediment for access control to the area.

3.3 DA/607/2006/D-Reconsideration of proposed Section 96(1A) for the the modification of conditions relating to public access to the roof terrace observation deck, Azzurro Blu Wharf, The Entrance (contd)

It should be noted that currently the public, tenant(s) and their patrons, are all entitled to access the roof terrace observation deck during the operating hours of the development. Moreover, the roof terrace observation deck is the subject of the current lease. If approval is granted to the modifications under this Section 96(1A) application, there will be a restriction for public access to the roof terrace observation deck after 5.00pm (AEST) and 7.00pm (AEDT) seven (7) days a week. Tenant(s) and patrons of the development would be able to use this area to the exclusion of the general public between 5.00pm - 10.00pm (AEST) and 7.00pm – 10.00pm (AEDT), seven (7) days a week.

The current conditions of development consent 607/2006 allow for “unfettered” (unrestrained/unrestricted) access to the roof terrace observation deck, albeit, only during the operating hours of the development whilst the restaurants are trading. If the proposed modification application is refused then this arrangement will remain in place.

If Council forms the opinion that the status quo should be maintained, and wants to ensure “the provision of unfettered access by the public to the roof top terrace as per its resolution of 25 July 2012”, then Council would need to consider refusal of the current Section 96(1A) application which seeks to impose restrictions on the use of the roof terrace observation deck. If this opinion is so formed, then the Section 96(1A) application could be refused for the suggested reasons outlined below.

REASONS FOR REFUSAL

1. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not consistent with, and will not satisfy the objectives of the 6(a) Open Space and Recreation zone as detailed in Wyong Local Environmental Plan 1991. The development will hinder attainment of the objectives by restricting public access to the approved roof terrace observation deck.
2. Pursuant to Section 79C (1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed modifications will impact on the public domain. The modification would restrict the existing public access to the roof terrace observation deck, resulting in the privatization of the designated public open space after daylight hours which would adversely impact upon, and diminish, the overall community benefit.
3. Pursuant to Section 79C (1) (b) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been submitted to demonstrate how the private use of the roof terrace observation deck after daylight hours would not adversely impact on the public use of the area and therefore allow the use of the area to remain substantially the same as that which was originally approved.
4. Pursuant to Section 79C (1) (c) of the *Environmental Planning and Assessment Act 1979*, the proposed modifications will impact on the public domain. The modification would restrict the existing public access to the roof terrace observation deck, resulting in the privatization of the designated public open space after daylight hours which would adversely impact upon and diminish the overall community benefit.

3.3 DA/607/2006/D-Reconsideration of proposed Section 96(1A) for the the modification of conditions relating to public access to the roof terrace observation deck, Azzurro Blu Wharf, The Entrance (contd)

5. Pursuant to Section 79C(1) (c) of the *Environmental Planning and Assessment Act 1979*, the subject site is considered unsuitable for the restriction proposed given that consent was granted on the basis of continued public use of the open space area within the development as a means of compensating for the community public space that was taken away as a result of the construction of the development.
6. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposal is considered contrary to the intent of Council to provide public open space within the development to compensate for the loss of public land that was lost as a result of the development, and therefore contrary to the public interest.
7. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed modifications are considered contrary to the adopted planning strategy for The Entrance Peninsula and therefore contrary to the public interest.
8. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposal is not in the public interest as it has not been demonstrated how restricting public access to the roof terrace observation deck would achieve the intended improvement in security to the area.
9. Having regard to the above reasons for refusal, the proposed development is contrary to the objects of the *Environmental Planning and Assessment Act 1979* (Section 5(iv)) which provides for the provision of land for public purposes. The proposed modification would prejudice the supply of public open space that was available to the community.

CONCLUSION

If the Council forms the opinion that the status quo should be maintained and it should ensure the provision of unfettered access by the public to the roof terrace observation deck, then the modifications proposed in the current Section 96(1A) application should be refused in accordance with the suggested reasons for refusal detailed above or other reasons deemed appropriate or relevant to refusal of the application.

For Council's consideration and determination.

ATTACHMENTS

- | | | | |
|---|---|-----------|-----------|
| 1 | Copy of Previous Report to Council 25 July 2012 | Enclosure | D03066307 |
| 2 | Development Plan for proposed security door | Enclosure | D03071040 |

3.4 DA/1457/2010/D -Reconsideration of Section 96(1A) Application for the modification of conditions relating to public access to the existing roof terrace observation deck, Azzurro Blu Wharf, The Entrance

TRIM REFERENCE: DA/1457/2010/D - D03079613
MANAGER: Peter Fryar, Manager Development Assessment
AUTHOR: Emily Goodworth; Team Coordinator, Applications

SUMMARY

The development consent, the subject of this application, granted approval for *Internal alterations to existing four (4) ground floor food service tenancies, use of mid level function centre, external façade alterations, provision of shade structure and external deck to ground level tenancy* to the development now known as Azzurro Blu Wharf. An application has been received under Section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) for the modification of Condition 27 of development consent DA/1457/2010 relating to access to the existing roof terrace observation deck.

Applicant	Sydney Civil Developments Pty Ltd
Owner	Wyong Shire Council
Application No	1457/2010/D
Description of Land	Lot 1 DP 1012476 & Lot 101 DP 1046474 (12) The Entrance Road, The Entrance
Proposed Development	Section 96(1A) for the modification of Condition 27 of development consent DA/1457/2010/D relating to access to the existing roof terrace observation deck above Azzurro Blu Wharf, The Entrance.
Site Area	1,177.2m ²
Zoning	6(a) Open Space and Recreation
Existing Use	Restaurants and function centre
Estimated Value	Nil

RECOMMENDATION

That Council consider the matters detailed in the reports for DA/607/2006/D dated 25 July 2012 and 8 August 2012 and determine the application.

BACKGROUND

The Section 96 (1A) application for DA/1457/2010 was considered at Council's Ordinary Meeting held 25 July 2012. The report recommended that the development consent be modified to permit restricted access to the rooftop terrace observation deck during the early evening such that the general public could only access the deck during daylight hours.

3.4 DA/1457/2010/D -Reconsideration of Section 96(1A) Application for the modification of conditions relating to public access to the existing roof terrace observation deck, Azzurro Blu Wharf, The Entrance (contd)

The modified access arrangement was proposed for a twelve (12) month trial period. In particular, it was recommended that condition 27 which currently permit the general public to have unrestricted access to the observation deck during the operating hours of the development be modified as follows:

Amend Condition 27 to read:

27 For a period of twelve (12) months, from the date of this modified consent:

- (a) The public are to have unrestricted, safe and convenient access to the roof terrace observation deck during the hours of 8.00am - 5.00pm (AEST), seven (7) days a week and 8.00am - 7.00pm (AEDT), seven (7) days a week; and*
- (b) The tenant(s) and patrons of the development are to have access to the roof terrace observation deck between the hours of 5.00pm - 10.00pm (AEST), seven (7) days a week and 7.00pm - 10.00pm, seven (7) days a week; and*
- (c) No person shall have access to the roof terrace observation deck between the hours of 10.00pm - 8.00am, seven (7) days a week.*

Council at its meeting held on 25 July 2012 resolved on the motion of Councillor Wynn and seconded by Councillor Symington:

- 1 That Council defer a decision on this item.*
- 2 That Council consider a report, at the 8 August 2012 Ordinary meeting, on the section 96 application based on ensuring the provision of unfettered access by the public to the roof top terrace.*

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

AGAINST: COUNCILLOR EATON

Having regard for resolution No. 2 above, the following report has been prepared for Council's consideration.

EXECUTIVE SUMMARY

Development Consent DA/1457/2010 was granted for the *Internal alterations to existing four (4) ground floor food service tenancies, use of mid level function centre, external façade alterations, provision of shade structure and external deck to ground level tenancy.* The development consent imposed a condition, condition 27, which required public access to be provided to the roof terrace observation deck during operating hours of the development.

3.4 DA/1457/2010/D -Reconsideration of Section 96(1A) Application for the modification of conditions relating to public access to the existing roof terrace observation deck, Azzurro Blu Wharf, The Entrance (contd)

Condition 27 reads as follows:

The proprietors of the venue are to ensure to the satisfaction of Council that the public are to have unrestricted, safe and convenient access to the observation deck during the operating hours of the development. In this regard no alcohol is to be served on the observation deck.

The applicant seeks to restrict public access to the roof terrace observation deck so that access to the general public is only available between 8.00am and 5.00pm, seven (7) days a week. The application also seeks approval for exclusive use of this area for tenant(s) and their patrons between 5.00pm and 10.00pm. Consequently, no access to the rooftop terrace would be available for **any** person(s) between the hours of 10.00pm – 8.00am. The modification sought would involve an amendment to Condition 27 to remove the requirement for “*unrestricted access*” during the “*operating hours of the development*” and would subsequently impose hours where the roof terrace observation deck was to remain open to the public and when the area was available exclusively for use by the tenant(s) and their patrons.

It should be noted that currently the public, tenant(s) and their patrons, are all entitled to access the roof terrace observation deck during the operating hours of the development. Moreover, the roof terrace observation deck is the subject of the current lease. If approval is granted to the modifications sought under this Section 96(1A) application, there will be a restriction for public access to the roof terrace observation deck after 5.00pm seven (7) days a week. Tenant(s) and their patrons of the development would be able to use this area to the exclusion of the general public between 5.00pm - 10.00pm, seven (7) days a week sought by the applicant. The report previously submitted to Council recommended that unrestricted access by the public to the roof top terrace be provided between the hours of 8.00am - 5.00pm (AEST) and 8.00am - 7.00pm (AEDT), seven (7) days a week for a twelve (12) month trial period.

The current conditions of development consent 1457/2010 allow for “unfettered” (unrestrained/unrestricted) access to the roof terrace observation deck, albeit, only during the operating hours of the development. If the proposed modification is refused then this arrangement will remain in place.

If Council forms the opinion that the status quo should be maintained, and wants to ensure “the provision of unfettered access by the public to the roof top terrace as per its resolution of 25 July 2012”, then Council would need to consider refusal of the current Section 96(1A) application which seeks to impose restrictions on the use of roof terrace observation deck. If this opinion is so formed, then the Section 96(1A) application could be refused for the suggested reasons outlined below.

REASONS FOR REFUSAL

1. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not consistent with, and will not satisfy the objectives of the 6(a) Open Space and Recreation zone as detailed in Wyong Local Environmental Plan 1991. The development will hinder attainment of the objectives by restricting public access to the approved roof terrace observation deck.

3.4 DA/1457/2010/D -Reconsideration of Section 96(1A) Application for the modification of conditions relating to public access to the existing roof terrace observation deck, Azzurro Blu Wharf, The Entrance (contd)

2. Pursuant to Section 79C (1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed modifications will impact on the public domain. The modification would restrict the existing public access to the roof terrace observation deck, resulting in the privatization of the designated public open space after daylight hours which would adversely impact upon, and diminish, the overall community benefit.
3. Pursuant to Section 79C (1) (b) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been submitted to demonstrate how the private use of the roof terrace observation deck after daylight hours would not adversely impact on the public use of the area and therefore allow the use of the area to remain substantially the same as that which was originally approved.
4. Pursuant to Section 79C (1) (c) of the *Environmental Planning and Assessment Act 1979*, the proposed modifications will impact on the public domain. The modification would restrict the existing public access to the roof terrace observation deck, resulting in the privatization of the designated public open space after daylight hours which would adversely impact upon and diminish the overall community benefit.
5. Pursuant to Section 79C(1) (c) of the *Environmental Planning and Assessment Act 1979*, the subject site is considered unsuitable for the restriction proposed given that consent was granted on the basis of continued public use of the open space area within the development as a means of compensating for the community public space that was taken away as a result of the construction of the development.
6. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposal is considered contrary to the intent of Council to provide public open space within the development to compensate for the loss of public land that was lost as a result of the development and therefore contrary to the public interest.
7. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed modifications are considered contrary to the adopted planning strategy for The Entrance Peninsula and therefore contrary to the public interest.
8. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposal is not in the public interest as it has not been demonstrated how restricting public access to the roof terrace observation deck would achieve the intended improvement in security to the area.
9. Having regard to the above reasons for refusal, the proposed development is contrary to the objects of the *Environmental Planning and Assessment Act 1979* (Section 5(iv)) which provides for the provision of land for public purposes. The proposed modification would prejudice the supply of public open space that was available to the community.

3.4 DA/1457/2010/D -Reconsideration of Section 96(1A) Application for the modification of conditions relating to public access to the existing roof terrace observation deck, Azzurro Blu Wharf, The Entrance (contd)

CONCLUSION

If the Council forms the opinion that the status quo should be maintained and it should ensure the provision of unfettered access by the public to the roof terrace observation deck, then the modifications proposed in the current Section 96(1A) application should be refused in accordance with the suggested reasons for refusal detailed above or other reasons deemed appropriate or relevant to refusal of the application.

For Council's consideration and determination.

ATTACHMENTS

- | | | | |
|---|--|-----------|-----------|
| 1 | Previous report to Council for DA/1457/2010/D - Section 96(1A) Application | Enclosure | D02961168 |
| 2 | Development Plan for proposed security door | Enclosure | D03071040 |

3.5 North Wyong Industrial Estate

TRIM REFERENCE: RZ/1/2011 - D03068587

MANAGER: Martin Johnson, Manager Land Use Planning and Policy Development

AUTHOR: Jonathan Luke; Senior Strategic Planner

SUMMARY

Council is in receipt of a Planning Proposal (rezoning application) which seeks to rezone approximately 88 hectares of general industrial and light industrial land comprising part of the existing North Wyong Industrial Estate to a Business Enterprise Zone (B6).

A review of the proposal has established that it has merit and should be advanced to the "Gateway" of the Department of Planning and Infrastructure it being noted that further investigations and consultation will be required as the Planning Proposal is advanced.

Applicant	Henry Kendall Group
Owners	Henry Kendall Group and Others (including Wyong Shire Council).
Description of Land	Land generally fronting Pacific Highway (Refer to Attachment "1")
Site Area:	Approximately 88.7 hectares
Zoning	4(a) Industrial 4(b) Light Industrial 5(a) Special Uses (Electricity Substation)
Existing Use	Principally mixed industrial and vacant industrially zoned land. Some limited commercial/retail activity.

RECOMMENDATION

- 1** That Council initiate Planning Proposal to amend Wyong Local Environmental Plan 1991, pursuant to Section 55 Environmental Planning and Assessment Act, 1979 by endorsing the Planning Proposal at Enclosure "1".
- 2** That Council forward the Planning Proposal to the Department of Planning and Infrastructure requesting a "Gateway" determination, pursuant to Section 56(1) Environmental Planning and Assessment Act.
- 3** That subject to the Director General's approval, Council undertake community consultation in respect of the Planning Proposal, subject to the determination of the "Gateway" process and Director General's approval.

BACKGROUND

The North Wyong Industrial Estate (The Estate) is located approximately 2.5km north of the Wyong Town Centre and has extensive frontage to the Pacific Highway. The Estate comprises approximately 143 hectares, is composed of 137 allotments and has been developed incrementally since the mid 1960's.

Approximately 67 hectares, (comprising some 57 lots) of The Estate or 47 per cent remains vacant. However, The Estate it remains well located, supported by significant service infrastructure and has experienced minor transformational change toward technology and service industrial activities. The Verb Data Centre situated toward the south west corner of The Estate bears testimony to some of the future prospects for the land if an appropriate planning regime is developed.

The Planning Proposal submission has been revised and reformatted to form Enclosure (1).

CURRENT STATUS

As described above the precinct is a partially developed industrial precinct.

THE PLANNING (REZONING) PROPOSAL

Overview

MacroPlan Dimasi have compiled a Planning Proposal Submission (rezoning application) on behalf of the Henry Kendall Group and others which seeks to rezone approximately 88 hectares of The Estate from the prevailing 4(a) General Industrial and 4(b) Light Industrial zoning, under Wyong Local Environmental Plan, 1991 (WLEP 1991) refer to Attachment 2 to an Enterprise Corridor – B(6) zoning. (Refer to Attachment 3)

The Planning Proposal Submission has been compiled having regard to the context described in the Background to this Report (refer above) and liaison with Council staff. It expressly seeks to optimise the economic use of strategically located serviced and underutilised industrial land stock by fostering/accommodating emerging technology enterprise and associated uses. In doing so it seeks to strengthen Wyong's employment retention capacity, by more fully reflecting local workforce qualifications and demands, whilst not competing with other existing/planned business precincts.

Vision

A draft vision of the redeveloped precinct is detailed in Enclosure (1).

Business Enterprise zone B(6)

The proposed landuse objectives for the B(6) zone, as contained in the Draft Wyong LEP, 2012 are detailed below, whilst the relevant Landuse Table forms Attachment 4

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.
- To accommodate emerging technology enterprise in appropriate locations along key corridors.
- To promote the sustainable use of public transport, and to provide relevant employment opportunities closer to home.
- To provide for residential uses, but only as part of a mixed use development.

Beyond the emerging technology focus and the continuation of light/service industry, provision exists for shop top housing, in a limited range of circumstances, in a mixed use development scenario.

Development Standards

A maximum building height map is promoted by the Proponents and reproduced as Attachment 5. Maximum building heights ranging from 10 metres to 20 metres are proposed (approximately 3 storeys to 6 storeys).

The proposed building heights have been subject to preliminary testing in an urban design context having regard to “secondary” development controls/provisions comprising: building bulk/massing, carparking provision, manoeuvring requirements, landscaping requirements, water sensitive urban design; at the request of Council staff. Further, preliminary feasibility analysis of typical resultant development, having regard to the Central Coast development/investment market, was undertaken at the request of Council staff. (Refer to Enclosure 1).

The projected provisions have been demonstrated conceptually to be solidly founded, both in a design and market sense. It should be noted, however, that some of the material comprising Enclosure 1 requires refinement.

Utilising Existing Infrastructure

Additionally, the following circumstances potentially contribute positively to realising the vision of a technology business focussed corridor.

- Direct proximity to the North Wyong Energy Australia substation.
- Good fibre optic access from key carriers in the area.
- Presence of the Infrastructure Data Centre with capacity and capability to support business with significant data security, processing and storage requirements.
- Significant supply of vacant serviced land, with limited ownership fragmentation.
- Situated in a growth area with a significant potential labour force.

Supporting Information

It is noted that the information accompanying the Planning Proposal Submission needs to be further supplemented in several areas prior to proceeding to post “Gateway” consultation. Importantly, the lack of such information does not detract from the ability to recommend support for the advancement of the Planning Proposal (presented as Enclosure 1) to the “Gateway”. The additional information required relates to;

- service infrastructure;
- flooding details;
- traffic, transport and accessibility information; and
- additional information concerning how the proposal will integrate with existing development and uses. For more information, refer to Attachment 6.

Inclusion of residential properties fronting Pacific Highway

The Planning Proposal prepared by the proponents excludes residentially zoned land containing dwelling houses fronting the Pacific Highway. Having regard to the long term strategic nature and importance of the Planning Proposal, and that Dwelling Houses are a permissible use with the Enterprise Corridor – B(6) zoning, it is intended to amend the Planning Proposal prepared by the proponents to include these sites.

STRATEGIC CONTEXT**General**

The Proposal is not expressly identified in any strategic plans or reports. It does, however, potentially assist in realising the Central Coast Regional Strategy overarching objective of enhanced employment self containment and in doing so contribute to the strategy target of an additional 45,000 jobs on the Central Coast the period 2006 – 2031 and more specifically 12,000 additional jobs in the North Wyong Shire Structure Plan area (by 2031).

Draft North Wyong Shire Structure Plan, 2010

The Draft North Wyong Shire Structure Plan Plan reinforces the Regional Strategy objective of 12,000 additional jobs by 2031 cited above. In this regard the Estate is identified as an existing urban area and by inference subject to the established industrial land employment generation rate of 10 to 20 jobs per hectare.

Draft Central Coast Regional Transport Strategy

The Estate benefits from proximity to the Wyong and Warnervale train stations and frequent bus services on the Pacific Highway.

Regional Economic Development and Employment Strategy

The Planning Proposal is consistent with the pertinent broad ranging strategies detailed in the Strategy. The Central Coast Regional Economic Development and Employment Strategy 2009 identifies a number of priorities that this Planning Proposal supports; including:

- To develop a more robust and sustainable regional economy;
- To deliver more than 45,000 new jobs by 2031, to increase the region's level of employment self containment and to provide jobs for a growing population;
- To shape new areas of advantage and business opportunity through increasing the level of research and innovation in the region.
- To encourage employment growth in key employment nodes, including strategic centres, employment lands and smaller centres.

Employment Lands Development Program 2010 (Report 11 Central Coast Sub Region)

The significant stock of industrially zoned lands is highlighted. This has been reaffirmed more recently in the draft findings of the Wyong Shire Employment Lands Study which established the existence of approximately 1100 hectares of industrially zoned land. Whilst a percentage of this land is constrained to varying degrees, adequate supply of industrially zoned land will remain should this Planning Proposal proceed to gazettal. Furthermore, the nature of the Enterprise Corridor Land Uses will not compete directly with traditional Industrial Land Uses.

Wyong Shire Community Strategic Plan

The proposal is consistent with the Community Strategic Plan objectives in respect of:

- Local travel
- A sustainable business sector
- Information and communication technology
- Community education and innovation

Draft Wyong Shire Employment Lands Study

The subject study has not been finalised. Notwithstanding this, the Study has clearly established that there is a significant supply of existing Industrial land as cited above.

STATUTORY PLANNING CONTEXT

Wyong Local Environmental Plan, 1991

The prevailing local planning instrument in zoning the subject land 4(a) General Industrial and 4(b) Light Industrial generally precludes development of the nature proposed in the new enterprise corridor vision and has led to the submission of the subject Planning Proposal.

Wyong Development Control Plan 2005 (Chapter 36)

This DCP Chapter provides specific guidelines for the development of the area for industrial purposes. It has an industrial focus and seeks to ensure appropriate functionality, compatibility, accessibility, environmental sensitivity and visual attractiveness.

Some of the principles remain relevant. However, some of the controls will need to be reviewed to ensure consistency with a new Enterprise Corridor vision. It is proposed that this will occur concurrent to the Planning Proposal process.

State Environmental Planning Policy (SEPP) No 14 (Coastal Wetlands)

Part of The Estate drains through environmentally sensitive lands and toward the Porters Creek floodplain and associated wetlands.

The water management principles contained in Chapter 36 of Wyong Development Control Plan, 2005 are critical to ensuring acceptable wetland impacts. The relevant management strategies, however, need to be revised and integrated with the Precinct 7A Integrated Water Cycle Management Strategy.

State Environmental Planning Policy (SEPP) No 55 (Remediation of Land)

The land is importantly zoned for urban purposes and indicative of acceptance of the suitability of the land for such purposes, having regard to potential contamination. It should be noted, however, that in the event of transformation (redevelopment) of existing industrial premises it may be necessary for Phase 1 preliminary contamination investigations to be undertaken on an individual site/precinct basis.

State Environmental Planning Policy (SEPP) No 33 (Hazardous and Offensive Development)

The prevailing zoning is noted to prohibit hazardous industries and hazardous storage establishments and offensive industries and offensive storage establishments. Similarly, the proposed landuse provisions attached to the proposed B6 zone preclude such uses/activities.

State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes, 2008)

The Planning Proposal does not include any specific provisions relating to Exempt and Complying Development, nor does it contradict or reflect any provision in the Codes SEPP.

State Environmental Planning Policy (SEPP) (Infrastructure, 2007)

The Planning Proposal does not contradict or repeat any provisions in the Infrastructure SEPP.

It should be noted that although certain landuses are not specified in the proposed B6 landuse table, they are permitted under the Infrastructure SEPP.

State Environmental Planning Policy (SEPP) (Mining, Petroleum Production, and Extractive Industries, 2007)

This policy aims to provide for the proper management and development of mineral, petroleum and extractive material resources for the social and economic welfare of the State.

The Planning Proposal does not contravene the SEPP.

Ministerial Directions (Section 117 EP& A Act)

The Directions issued by the Minister for Planning and Infrastructure must be addressed, where relevant, in Planning Proposals.

The following table identifies the applicability and consistency of the proposed rezoning with the current Section 117 Directions. A more detailed assessment is contained within Attachment 7.

Number	Direction	Applicable	Consistent
Employment and Resources			
1.1	Business and Industrial Zones	Yes	Yes
1.2	Rural Zones	No	N/A
1.3	Mining, Petroleum production and Extractive Industries	Yes	No (Justified)
1.4	Oyster Aquaculture	No	N/A
1.5	Rural Lands	No	N/A
Environment and Heritage			
2.1	Environment Protection Zones	Yes	Yes

3.5**North Wyong Industrial Estate (contd)**

2.2	Coastal Protection	No	N/A
2.3	Heritage Conservation	Yes	Yes
2.4	Recreation Vehicle Areas	No	N/A
Housing, Infrastructure and Urban Development			
3.1	Residential Zones	Yes	Yes
3.2	Caravan Parks and Manufactured Home Estates	Yes	Yes
3.3	Home Occupations	Yes	Yes
3.4	Integrating Land Use and Transport	Yes	Yes
3.5	Development Near Licensed Aerodromes	Yes	Yes
6.3	Shooting Ranges	No	N/A
Hazard and Risk			
4.1	Acid Sulphate Soils	Yes	Yes
4.2	Mine Subsidence and Unstable Land	No	N/A
4.3	Flood Prone Land	Yes	Yes
4.4	Planning for Bushfire Protection	Yes	Yes
Regional Planning			
5.1	Implementation of Regional Strategies	Yes	Yes
5.2	Sydney Drinking water Catchments	No	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North coast	No	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked)	No	N/A
5.6	Sydney to Canberra Corridor (Revoked)	No	N/A
5.7	Central Coast (Revoked)	No	N/A
5.8	Second Sydney Airport: Badgerys Creek	No	N/A
Local Plan Making			
6.1	Approval and Referral Requirements	Yes	Yes
6.2	Reserving Land for Public Purposes	Yes	Yes
6.3	Site Specific Provisions	Yes	Yes

OPTIONS**Option 1**

The Planning Proposal Submission is considered to present a substantive case for rezoning and as such the progression of the Planning Proposal presented in Enclosure 1 to the “Gateway” for determination is recommended.

Option 2

If Council were to choose to not progress the Planning Proposal, to the “Gateway” for determination, it could be confronted with the prospects of an “underperforming” industrial precinct and fail to potentially capitalise on the transformational opportunity anchored by the substation, available technological fibre infrastructure, secure data management services, accessible transport and burgeoning labour force.

Option 3

A third option exists to request that the existing information provided with the Planning Proposal submission be supplemented now prior to forwarding to the Gateway. This option is not favoured as it is considered that adequate information has been furnished to support consideration by the DP&I Gateway. Further information requirements may be identified at "Gateway" and possibly during subsequent consultation within Government Agencies. It is preferable that this identified additional information requirements are addressed in an integrated manner.

STRATEGIC LINKS**Annual Plan**

<u>Principal Activity</u>	<u>Strategy or Program</u>
A More Sustainable Community	Nil Impact
A More Sustainable Economy	<ul style="list-style-type: none"> Increased employment options in the Shire and reduced dependence on commuting to the Sydney and Hunter regions for employment, further reducing commuting times and improving work/life balance. Planning Proposal provides the flexibility in the range of employment uses along this corridor and potentially facilitates the establishment of new business in the Shire. The Planning Proposal facilitates more efficient use of existing urban land for additional, employment while minimising the impact to the Shire's environmental footprint.
A More Sustainable Environment	Nil Impact
Infrastructure	<ul style="list-style-type: none"> As discussing in the report, the Proposal will have access to existing road, water, sewer, electricity and optic fibre infrastructure. Upgrades funded by the development, will be necessary for some existing infrastructure.
Organisation	Nil Impact

Link to Shire Strategic Vision (Community Strategic Plan – 2030)

The following comments are made with respect to the 8 priority objectives:-

- Communities will be vibrant, caring and connected.
- There will be ease of travel.
- Communities will have a range of facilities and services.
- Areas of natural value will be enhanced and maintained.
- There will be a sense of community ownership of the natural environment.
- There will be a strong sustainable business sector.
- Information and communication technology will be world's best.
- The community will be educated, innovative and creative.

Travel***Access to public and private bus services***

Access is available to the local bus service, with opportunities for enhanced services to be further pursued.

Enhancement of local bicycle/shared pathway and on-road cycle way opportunities.

Opportunities for linkages to existing pedestrian and cycleway networks should be further explored as the Planning Proposal is advanced.

Facilities and Services***Maximising access to, and potential for, new and existing facilities/infrastructure to support growth.***

The potential exists to capitalise on existing community neighbourhood infrastructure. The prospects of onsite community facilities to service an expanded and more diverse workforce, such as childcare centre and limited commercial premises are possible.

Education***Creating programs that encourage lifelong learning for everyone.***

There are prospects of technologically focused educational and training opportunities.

Natural Areas

Preserving threatened and endangered species as well as ecological communities and biodiversity.

Nearby areas of environmental sensitivity will be further protected by contemporary environmental management practices, including water sensitive urban design initiatives, as they are implemented with new development.

Developing and introducing strategies to reduce the Shire's Environmental Footprint.

The proposal represents a logical opportunity of optimising the urban outcome from a parcel of land, thereby minimising the impact on the Shire's environmental footprint.

Employment

There will be a sustained increase in local jobs.

Short term employment opportunities will be provided during a potentially expansive development phase. The prospects of enhanced diverse permanent employment opportunities are significant as outlined in this report and detailed in Enclosure 1.

Asset Management Strategy

There are no immediate implications for the Asset Management Strategy. Ultimately the servicing and dedication of any modified or expanded public infrastructure will need to observe Council's relevant standards and integrate with the Asset Management Strategy.

Workforce Management Strategy

The advancement of the Planning Proposal is being funded by the proponents. Future workforce implications beyond the processing phase will be addressed as Council reviews its Revenue Policy annually and the Service Unit Business Plan.

Budget Impact

There are no immediate budget impacts.

Financial Implications

Advancement of the Planning Proposal will continue to be fully funded by the Proponents (in accordance with Section 54(3) of the EP&A Act and Council's Planning Proposal Procedure).

Should the land be rezoned it will attract development application fees, Section 94 contributions and Developer Servicing Charges (water and sewer contributions) and relevant rates from landholders.

Council will ultimately be assuming a management/maintenance responsibility for limited additions to the public road network and amendments to the public domain generally.

Major intersection enhancements with the Pacific Highway will be largely funded by future development.

Sustainability

The Planning Proposal has the potential of contributing to a more sustainable employment precinct, in terms of the range and profile of activities proposed and their attendant employment generating capacity.

The prospects of a further internal road linkage will enhance permeability of the Estate and its attendant positive impacts.

The redevelopment of the precinct also provides opportunities for the implementation of leading edge building sustainability and water sensitive urban design initiatives.

Material Risks and Issues**Corporate Risks**

There are no immediately identifiable corporate risks. It will, however, be critical to ensure that infrastructure is enhanced (at developer cost) and where necessary commensurate amendments to the various contribution/funding plans.

CONSULTATION

It is recommended that the Planning Proposal be subject to broad ranging local consultation. Additionally, council will need to consult a range of Government Agency nominated in the "Gateway" determination.

GOVERNANCE AND POLICY IMPLICATIONS

These have been addressed elsewhere in the report.

MATERIAL RISKS AND ISSUES

Corporate exposure to Council would potentially occur if all relevant planning issues associated with the Planning Proposal are not resolved prior to the rezoning being finalised.

CONCLUSION

The Planning Proposal provides prospects of adding an important dimension to the local employment base as part of the existing Estate (including significant vacant land) is transformed and assumes a technology and enterprise focus.

In doing so, Wyong Shire's employment retention capacity will be strengthened and more fully reflect local workforce qualifications and demands, whilst importantly not competing directly with other existing/planned business precincts.

A change in development focus will also be further reflected in enhanced building design and urban design along the Pacific Highway and more sustainable building practices, pursuit of water sensitive urban design initiatives, improved accessibility and greater environmental sensitivity generally.

3.5 North Wyong Industrial Estate (contd)

It is important that appropriate consultation occurs and existing development is facilitated to co-exist as the precinct is redeveloped.

It is recommended that the Planning Proposal be endorsed by Council for submission to the DoPI, accompanied by a request for a "Gateway" determination.

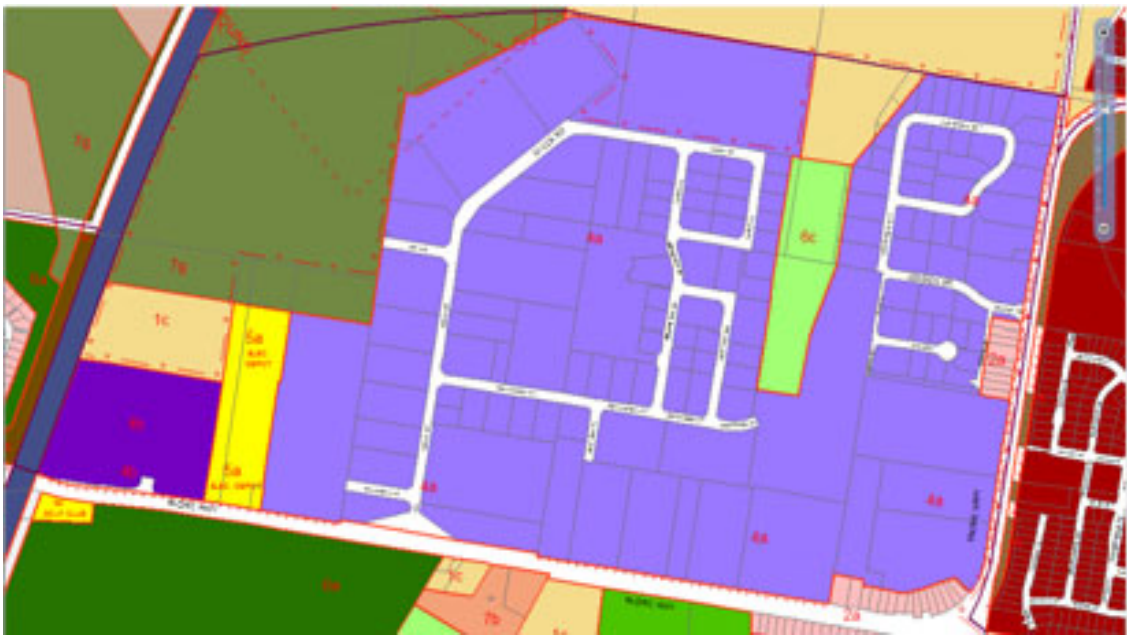
ATTACHMENTS

1	Plan of Land Subject to Rezoning Proposal	D03071313
2	Prevailing Zoning Wyong LEP 1991	D03080870
3	Proposed B(6) Enterprise Corridor	D03071319
4	Landuse Table Proposed b (6) Business Enterprise Zone	D03071320
5	Maximum Height of Buildings	D03071321
6	Additional Supporting Information Requirements	D03077372
7	Consistency with Ministerial Directions - Section 117 - Environmental Planning and Assessment Act	D03077373
8	Planning Proposal (distributed under separate cover)	

PLAN OF LAND SUBJECT TO REZONING PROPOSAL



PREVAILING ZONINGS UNDER WYONG LEP, 1991



1. RURAL

- T1 (a) Rural Zone
- T2 (b) Non Urban Constrained Lands Zone
- T3 (c) Village Zone
- T4 (d) Forestry Zone

2. RESIDENTIAL

- R1 (a) Residential Zone
- R2 (b) Multiple Dwelling Residential Zone
- R3 (c) Medium Density Residential Zone
- R4 (d) High Density Residential Zone
- R5 (e) Urban Release Area Zone
- R6 (f) Residential Tourist Zone

3. BUSINESS

- B1 (a) Business Centre Zone
- B2 (b) Centre Support Zone
- B3 (c) Tourist Business Zone

4. INDUSTRIAL

- I1 (a) General Industrial Zone
- I2 (b) Light Industrial Zone
- I3 (c) Business Park Zone
- I4 (d) Regional Industrial & Employment Development Zone

5. SPECIAL USES

- S1 (a) Special Uses Zone
- S2 (b) Railways Zone
- S3 (c) Local Road Reservation Zone
- S4 (d) Aerial Road Reservation Zone

6. OPEN SPACE

- O1 (a) Open Space & Recreation Zone
- O2 (b) Regional Open Space & Recreation Zone
- O3 (c) Proposed Open Space & Recreation Zone

7. ENVIRONMENTAL PROTECTION

- E1 (a) Conservation Zone
- E2 (b) Scenic Protection Zone
- E3 (c) Scenic Protection: Small Holdings Zone
- E4 (d) Coastal Lands Protection Zone
- E5 (e) Coastal Lands Acquisition Zone
- E6 (f) Environmental Protection Zone
- E7 (g) Wetlands Management Zone

8. NATIONAL PARKS

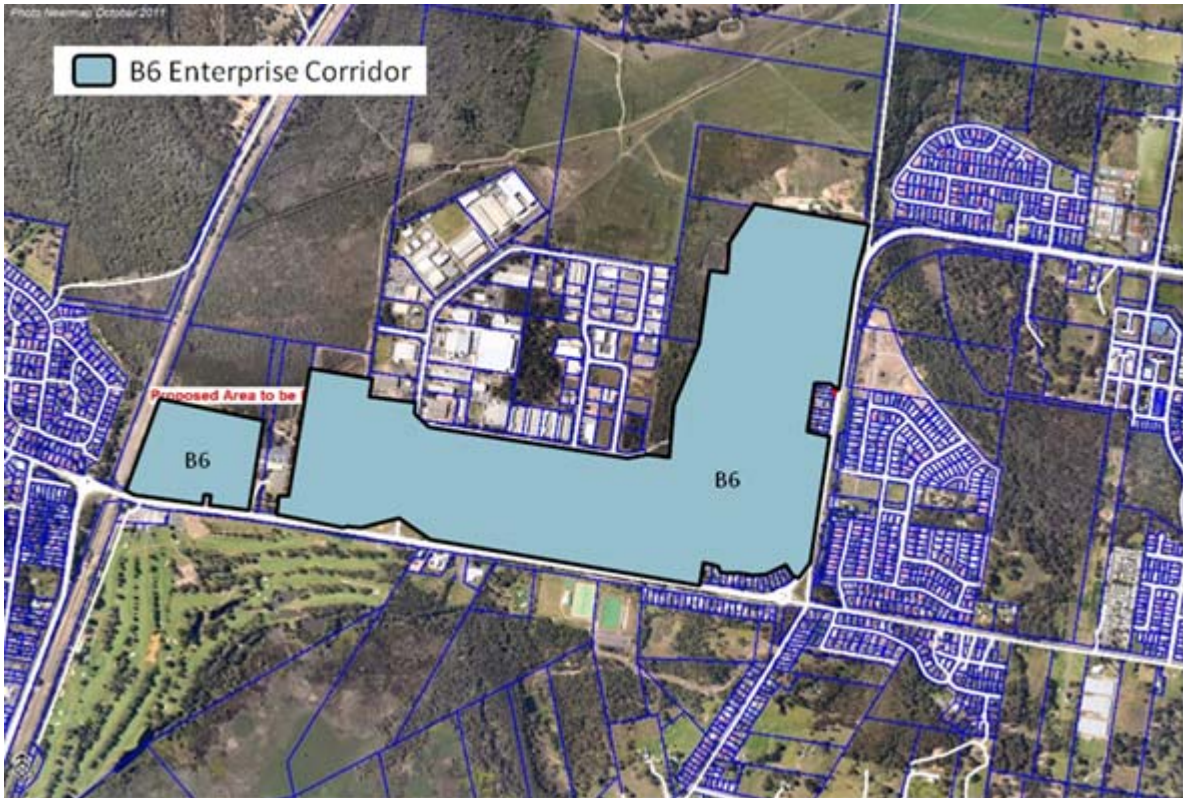
- NP1 (a) National Parks Zone

9. INVESTIGATION

- I1 (a) Investigation Precinct Zone

- Warriville Aerodrome Control - Noise Effect Area
- Warriville Aerodrome Control - Height Limitation
- Boundaries Across which Direct Access is Denied
- Lot Amalgamation

PROPOSED B(6) ENTERPRISE CORRIDOR



LANDUSE TABLE PROPOSED B(6) BUSINESS ENTERPRISE ZONE

(Draft Wyong LEP, 2012)

Objectives of zone

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.
- To provide for residential uses, but only as part of a mixed use development.
- To provide primarily for businesses along key corridors entering the Wyong Tuggerah regional centre, major local centres or retail centres.

Permitted without consent

Home occupations

Permitted with consent

Bulky goods premises; Business premises; Child care centres; Community facilities; Depots; Environmental Protection Works; Food and drink premises; Freight transport facilities; Garden centres; Hardware and building supplies; Highway service centres; Hotel or motel accommodation Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Markets; Neighbourhood shops; Office premises; Passenger transport facilities; Places of public worship; Plant nurseries; Public administration buildings; Roads; Rural supplies; Services apartments; Sewage reticulation systems; Shop top housing Signage; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Water reticulation systems; Water storage facilities; Any development not specified in item 2 or 4.

Prohibited

Agriculture; Airstrips; Air transport facilities; Animal boarding or training establishments; Boat building or repair facilities; Camping grounds; Caravan Parks; Cemeteries; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Heavy industrial storage establishment; Industrial retail outlets; Industries; Marinas; Mortuaries; Open cut mining; Port facilities; Residential accommodation; Retail premises; Rural industries; Sewerage systems; Storage premises; Tourist and visitor accommodation; Vehicle body repair workshops; Waste or resource management facilities; Water supply systems; Wharf or boating facilities.

MAXIMUM HEIGHT OF BUILDINGS



Proposed B6 Enterprise Corridor
Maximum Height of Buildings - Plan

Revision: B
Date: 10 July 2012

Tzannes Associates ARCHITECTURE URBAN DESIGN

ADDITIONAL SUPPORTING INFORMATION REQUIREMENTS

The substantive material informing the Planning Proposal at Enclosure 1 was prepared by the Proponents. Accompanying, such submission were a series of preliminary investigations. It is noted that the subject investigations need to be embellished and supplemented by additional information.

A brief overview of investigations considered necessary include:

Service Infrastructure

An outline strategy in respect of civil infrastructure augmentation/embellishment shall be prepared.

Flooding

The precinct is on the fringe of the floodplain and is the subject of an existing levee scheme/levee scheme proposal. The submitted flood report has significant deficiencies many of the assumptions and interpretations of past reports need to be revised and a preferred, integrated strategy advanced.

Traffic/Transport/Accessibility

A comprehensive traffic transport/accessibility report is to be prepared identifying the nature and extent of impacts likely to be attributable to increased employment projections in particular. The report should include:

- Traffic generation projections
- Parking requirements analysis and projected enhancement strategy.
- SIDRA intersection analysis and projected enhancement strategy.
- A public transport statement, including identification of enhanced opportunities.
- Pedestrian/cycle enhancement opportunities.

Integration with Existing Development/Existing Uses

An outline strategy shall be prepared detailing the principles to be observed to ensure the compatible integration of existing industrially focussed operations and neighbouring residential development.

CONSISTENCY WITH MINISTERIAL DIRECTIONS – Section 117
Environmental Planning and Assessment Act

Direction	Comment
1. Employment & Resources	
1.1 Business & Industrial Zones	
<ul style="list-style-type: none"> • Aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones and to support the viability of identified strategic corridors. • Applies when a draft LEP affects land within an existing or proposed business or industrial zone. 	<ul style="list-style-type: none"> • Applicable • The Planning Proposal is importantly consistent with the Directions underpinning objectives as summarised below: • Encourage employment growth in suitable locations. Diversification of business, commercial and industrial land uses along the Pacific Highway will contribute to employment and job density on unconstrained land, which is serviced by existing infrastructure connections. • Protect employment lands and create jobs. Various industries and high technology land uses will remain permissible and a number of higher density commercial uses will create more diverse jobs and business opportunities. Although, the proposal will reduce the amount of land zoned solely Industrial it will fundamentally not detract from the supply of lands, which generate employment opportunities and growth. In effect, the proposal will increase the number of potential jobs created; contributing to the overall target of 45,000 jobs by 2031 in the Central Coast Regional Strategy 2008. It will increase jobs density and is projected to exceed the local target of 2000 jobs in North Wyong Employment Lands by more than 1200 (About 3,250 jobs by 2031. ¹ • Support viability of centres. The proposal limits retailing activity, thereby supporting the viability and function of identified Strategic Centres at Wyong- Tuggerah and Gosford. This also recognises the role of a range of smaller towns and villages nearby, identified in the

¹ Source: Wyong Shire Residential Land Monitor (June 2009); MacroPlan Australia (2010)

	<p>Central Coast Regional Strategy, including the nearby planned Warnervale Town Centre and Wadalba (Village) Neighbourhood Centre, that will provide a different mix and offer of commercial activity to this land.</p> <p>It will also not be a direct competition with the Business Park proposed for Precinct 7A (Warnervale)</p> <p>It should be noted that the PP only relates to the land that has a high vacancy level along the Pacific Highway. 36 % (31.5ha) is long term vacant and undeveloped due largely to a lack of market demand for traditional industrial format lands.</p> <p>Notably, over 54 hectares will remain zoned general industrial to the north of the Industrial Estate.</p> <p>The proposed land use table will still permit light industrial uses, albeit, many of the existing land uses already on site are not defined 'industries'.</p> <p>An increase in gross floor space and higher job density will also ensure that the overall potential for employment increases.</p> <p>The Central Coast Regional Economic Development & Employment Strategy 2009 identifies a number of priorities that this PP supports ,including:</p> <ul style="list-style-type: none"> • <i>To develop a more robust and sustainable regional economy.</i> • <i>To deliver more than 45,000 new jobs by 2031, to increase the region's level of employment self-containment and to provide jobs for a growing population.</i> • <i>To shape new areas of advantage and business opportunity through increasing the level of research and innovation in the region.</i> • <i>To encourage employment growth in key employment nodes, including strategic centres, employment lands and smaller centres.</i>
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	<p>Additionally, the Employment Lands Development Program 2010 identifies that 57% of all Employment Lands in the Central Coast Region are undeveloped. This equates to 64 % in Wyong Shire. The land is similarly under occupied and the uptake for industrial purposes is consistently low. It is anticipated that this trend will be further validated by the Shire Wide Employment Lands Study and Industrial Audit, yet to be finalised by Council.</p> <p>(Consistent)</p>
1.2 Rural Zones	
<ul style="list-style-type: none"> • Aims to protect the agricultural production value of rural land. • Applies when a draft LEP affects land within an existing or proposed rural zone. 	<ul style="list-style-type: none"> • Applicable • The draft PP does not affect land within an existing or proposed rural zone.
1.3 Mining, Petroleum Production and Extractive Industries	
<ul style="list-style-type: none"> • Aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development. • Applies when a draft LEP would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, OR restricting the potential of development resources of coal, other mineral, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development. 	<ul style="list-style-type: none"> • Applicable. <p>The PP will have the effect of:</p> <p>Prohibiting extractive industries and open cut mining (It is noted that the extent of current industrial development and nearby residential development (in accordance with the prevailing zoning) is considered to negate the prospects of extractive industries and/or open cut mining; as do the impinging environmental sensitive constraints.</p> <p>(Inconsistent - Justified)</p>
1.4 Oyster Aquaculture	
<ul style="list-style-type: none"> • Aims to ensure that priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered, and to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and the health of oysters and consumers. • Applies when a draft LEP could result in adverse impacts on a priority Oyster Aquaculture Areas or current oyster aquaculture lease in the national parks estate or results in incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or current oyster aquaculture lease in the national parks estate and other land uses. 	<ul style="list-style-type: none"> • Not applicable. • The PP does not affect Priority Oyster Aquaculture Areas and other aquaculture outside areas identified in the <i>NSW Oyster Industry sustainable Aquaculture Strategy (2006)</i>.

1.5 Rural Lands	
<ul style="list-style-type: none"> • Aims to project the agricultural production value of rural land; and facilitate the orderly and economic development of rural lands for rural and related proposed. • Applies when a PP (draft LEP) affects land within an existing or proposed rural zone. 	<ul style="list-style-type: none"> • Not applicable. • Wyong Shire Council local government area is not subject to SEPP (Rural Lands), 2008.
2. Environment and Heritage	
2.1 Environmental Protection Zones	
<ul style="list-style-type: none"> • Aims to protect and conserve environmentally sensitive areas • Applies when Council prepares a PP (draft LEP). 	<ul style="list-style-type: none"> • Applicable • The PP is not considered to be inconsistent with this Direction. It should be noted, however, that the subject land is contiguous with an area of environmental sensitivity. This offsite environmentally sensitive land is currently zones Non Urban Constrained land 1(c) and 7(g) Wetlands Management Zone. Additionally, there is a precinct of land comprising substantial vegetation, currently zoned 6(c) Proposed Open Space and Recreation Zone. This latter vegetation community extends onto the subject land, but is currently zoned for General Industrial purposes (4(a). The proposed rezoning will not adversely impact the prevailing situation in respect of environmental sensitivity. Indeed, there exist the prospects of enhanced water management and offsite impacts through the installation and integration of stormwater management practices embracing in particular the principles of Water Sensitive Urban Design. (WSUD). Further, both onsite and offsite impacts on environmental systems will be comprehensively addressed, pursuant to Section 79(c) of the Act. Advancement of the PP will likely entail consultation with the Office of Environment and Heritage. <p>(Consistent)</p>

2.2 Coastal Protection	
<ul style="list-style-type: none"> • Aims to implement the principles in the NSW Coast Policy. • Applies when a draft LEP applies to land in the coastal zone as defined in the <i>Coastal Protection Act 1979</i>. 	<ul style="list-style-type: none"> • Not applicable • The PP does not include land located within the coastal zone, as defined by the <i>Coastal Protection Act, 1979</i>.
2.3 Heritage Conservation	
<ul style="list-style-type: none"> • Aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. • Applies when council prepares a PP (draft LEP). 	<ul style="list-style-type: none"> • Applicable. • There are no heritage items located on the subject land or on land proximate. Further, no cultural landscapes are adversely impacted. • Further indigenous heritage matters have not constrained the past adoption and implementation of the industrial zone provisions. <p>(Consistent)</p>
2.4 Recreational Vehicle Areas	
<ul style="list-style-type: none"> • Aims to protect sensitive land or land with significant conservation values from adverse impacts from recreational vehicles. • Applies when council prepares a PP (draft LEP). 	<ul style="list-style-type: none"> • Not Applicable. • The PP does not propose that land be developed for the purpose of a recreation vehicle area. <p>(Consistent)</p>
3. Housing Infrastructure and Urban Development	
3.1 Residential Zones	
<ul style="list-style-type: none"> • Aims to encourage a variety and choice of housing types to provide for existing and future housing needs, to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and to minimize the impact of residential development on the environmental and resource lands. • Applies when a PP (draft LEP) affects land within an existing or proposed residential zone, and any other zone in which significant residential development is permitted or proposed to be permitted. 	<ul style="list-style-type: none"> • Applicable. • The PP makes provision for shop top housing, but only where part of a mixed use development (as is inherent given the definition of shop top housing). • It will importantly expand the range of housing opportunities within the existing urban footprint, thereby minimising impacts on the environment and optimising use of existing infrastructure and services <p>(Consistent)</p>

3.2 Caravan Parks and Manufactured Home Estates	
<ul style="list-style-type: none"> • Aims to provide for a variety of housing types and provide opportunities for caravan parks and manufactured home estates. • Applies when council prepares a PP (draft LEP). 	<ul style="list-style-type: none"> • Applicable • The PP does not seek to rezone land to provide for caravan parks or manufactured home estates. Further, there are no existing caravan parks within the area, the subject of the PP. <p>(Consistent)</p>
3.3 Home Occupations	
<ul style="list-style-type: none"> • Aims to encourage the carrying out of low impact small business in dwelling houses. • Applies when Council prepares a PP (draft LEP). 	<ul style="list-style-type: none"> • Applicable • Home occupations are permitted without consent in the Proposed B6 zone, in accordance with the standard Instrument. <p>(Consistent)</p>
3.4 Integrating Land Use & Transport	
<ul style="list-style-type: none"> • Aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts to achieve: improving access to housing, jobs and services by walking, cycling and public transport; increasing choice of available transport and reducing transport on cars; reducing travel demand; supporting efficient and viable public transport services; and provide for efficient movement of freight. • Applies when a PP (draft LEP) creates alters or moves a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. 	<ul style="list-style-type: none"> • Applicable <p>The subject site has frontage to the Pacific Highway and all Highway based transport services, including in particular bus services. It is also proximate to the rail and opportunities that its future enhancement will afford.</p> <p>Opportunities for integration with future cycleway/pedestrian pathways will also be possible.</p> <p>The prospects of shop top housing also support the principles of integrated landuse and transport, potentially minimising some journey to work movements and making some alternative transport means more attractive.</p> <p>(Consistent)</p>
3.5 Development near Licensed Aerodromes	
<ul style="list-style-type: none"> • Aims to ensure the effective and safe operation of aerodromes, their operation is not compromised by development which constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, development for residential purposes or human occupation (within the ANEF contours between 20 & 25) incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise. • Applies when a PP (draft LEP) creates, alters 	<ul style="list-style-type: none"> • Applicable. <p>The site is significantly removed from the zone of influence of the Warnervale Airport, situated some 3 Kilometres to the north west of the subject land. Specifically, it is not impacted by flightpaths associated with the runway nor is it impacted by height or noise controls attached to the Airport operation.</p> <ul style="list-style-type: none"> • The PP does not propose to create, alter or remove a zone or provision relating to land in

or removes a zone or provision relating to land in the vicinity of a licensed aerodrome.	the vicinity of a licensed aerodrome. (Consistent)
3.6 Shooting Ranges	
<ul style="list-style-type: none"> Aims to ensure appropriate levels of public safety and amenity and minimization of landuse conflict when rezoning land adjacent to an existing shooting range. 	<ul style="list-style-type: none"> Not applicable. Not proximate to an existing shooting range.
4. Hazard & Risk	
4.1 Acid Sulphate Soils	
<ul style="list-style-type: none"> Aims to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils. Applies when a PP (draft LEP) applies to land having a probability of containing acid sulphate soils on the Acid Sulphate Soils Planning Maps. 	<ul style="list-style-type: none"> Applicable. <p>The site contains some limited Acid Sulphate Soils (Class 5). The adjoining land (not subject of the PP) also contains Acid Sulphate Soils (Classes 1-4).</p> <p>The proposed zoning amendment will not result in major changes to impervious areas. Further, the standard model clause requirements in respect of Acid Sulphate soils (Clause 7.1) will be relevant.</p> <p>(Consistent)</p>
4.2 Mine Subsidence & Unstable Land	
<ul style="list-style-type: none"> Aims to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence. Applies when a PP (draft LEP) permits development on land which is within a mine subsidence district, or identified as unstable in a study or assessment undertaken by or on behalf of Council or other public authority and provided to Council. 	<ul style="list-style-type: none"> Not applicable. The PP is not located within a Mine Subsidence District proclaimed pursuant to Section 15 of the Mine Subsidence Compensation Act, 1961 or on unstable land.
4.3 Flood Prone Land	
<ul style="list-style-type: none"> Aims to ensure: development on flood prone land is consistent with NSW government's flood Prone Land Policy and principles of the <i>Floodplain Development Manual 2005</i>; and provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land. Applies when a PP (draft LEP) creates, removes or alters a zone or provision that affects flood prone land. 	<ul style="list-style-type: none"> Applicable. The PP applies to a site currently zoned for industrial purposes and is subject to an existing flood mitigation strategy in respect of part of its northern fringe. Further, the standard model clause requirements in respect of Flood Planning (Clause 7.3) will be relevant. <p>(Consistent)</p>

4.4 Planning for Bushfire Protection	
<ul style="list-style-type: none"> • Aims to protect life, property and the environment from bushfire hazards, and encourage sound management of bushfire prone areas. • Applies when a PP (draft LEP) affects or is in proximity to land mapped as bushfire prone land. 	<ul style="list-style-type: none"> • Applicable. • The PP applies to land which is identified to contain bushfire prone vegetation or is impacted by the buffer zone to such vegetation. <p>A review having regard to the provisions of Planning for Bushfire Protection, 2006 has established that acceptable management elements in respect of Asset Protection Zones/Defendable Space, access and water supplies for fire – fighting purposes, construction standards of buildings, bushfire hazard management and emergency management, can be achieved.</p> <p>Council will consult with the Commissioner of the NSW Rural Fire Service (RFS) following receipt of a “Gateway” determination under Section 56 EP & A Act.</p> <p>In accordance with Clause 5.11 of the Standard Instrument Bushfire Hazard Reduction is permissible without development consent.</p> <p>(Complies)</p>
5. Regional Planning	
5.1 Implementation of Regional Strategies	
<ul style="list-style-type: none"> • Aims to give legal effect to the vision, land use strategy, policies, outcomes and actions contained within regional strategies. • Applies when council prepares a PP (draft LEP). 	<ul style="list-style-type: none"> • Applicable. • The PP is not directly affected by the Central Coast Regional Strategy. Such strategy, however, provides a broader contextual setting. • The PP is consistent with the vision and aims of the Strategy. The outcome of the PP will be to facilitate an increase in the number and diversity of employment opportunities and general vitality of the precinct. • The PP is also generally consistent with the following actions identified in the Strategy: <ul style="list-style-type: none"> ○ Action 5.1 – Promotion of economic and employment growth. ○ Action 5.2 – LEPs consistent with Strategy and employment targets. ○ Action 5.3 – Provision fro comparatively low cost premises. ○ Action 5.4 – Regional Economic and

	<p>Employment Strategy</p> <ul style="list-style-type: none"> ○ Action 5.6 – Retention of employment lands. ○ Action 5.7 – Focus on existing employment lands. ○ Action 5.8 – Impact of residential development. ○ Action 5.9 – Retail Bulky Good trading. ○ Action 5.11 – Retail and commercial focus ○ Action 5.17 – Interface issues ○ Action 5.18 – Enterprise corridors ○ Action 6.2 – Mining compatibility ○ Action 6.5 – Appropriate buffers ○ Action 6.8 – Aboriginal heritage ○ Action 6.9 – Rural and resource lands ○ Action 6.10 – Off site impact management ○ Action 6.14 – Waste management ○ Action 6.19 – Sustainable transport ○ Action 8.2 – Water management ○ Action 9.6 - Waste management ○ Action 10.1 – Strategic Bus Corridors ○ Action 10.4 – Upgrades to Pacific Highway ○ Action 10.9 – Integration employment and Transport nodes. ○ Action 10.10 – Optimise integration employment and Transport. ○ Action 11.3 Consistency with Regional Strategy <ul style="list-style-type: none"> ● The draft LEP will not rezone land that will diminish the ability of future employment generating areas.
5.2 Sydney Drinking Water Catchments	
<ul style="list-style-type: none"> ● Aims to protect water quality in the hydrological catchment. ● Applies when council prepares a PP (draft LEP) that applies to the hydrological catchment. 	<ul style="list-style-type: none"> ● Not applicable. ● This direction does not apply to Wyong LGA.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	
<ul style="list-style-type: none"> ● Aims to: ensure that the best agricultural land will be available for current and future generations to grow food and fibre; provide more certainty on the status of the best agricultural land, assisting councils with strategic settlement planning; and reduce land use conflict arising between agricultural use and non-agricultural use of farmland caused by urban encroachment into farming areas. 	<ul style="list-style-type: none"> ● Not applicable. ● This direction does not apply to Wyong LGA.

<ul style="list-style-type: none"> • Applies Ballina, Byron, Kyogle and Tweed Shire Councils, Lismore city council and Richmond Valley Council. 	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	
<ul style="list-style-type: none"> • Aims to manage commercial and retail development along the Pacific Highway, North Coast. • Applies to all councils between and inclusive of Port Stephens and Tweed Shire Councils. 	<ul style="list-style-type: none"> • Not applicable. • This direction does not apply to Wyong LGA.
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	
<ul style="list-style-type: none"> • Aims to ensure that development in the vicinity of the villages of Ellalong, Paxton and Millfield is consistent with the Cessnock City Wide Settlement Strategy and Lower Hunter Regional Strategy. • Applies to land in the vicinity of the villages of Ellalong, Paxton and Millfield in the Cessnock LGA. 	<ul style="list-style-type: none"> • Not applicable. • This direction does not apply to Wyong LGA.
5.6 Sydney to Canberra Corridor	
<ul style="list-style-type: none"> • Aims to ensure that PPs (draft LEPs) are prepared in accordance with the Sydney to Canberra Corridor. • Applies to land within the local government areas described as the 'Sydney to Canberra Corridor'. 	<ul style="list-style-type: none"> • Not applicable. • This direction does not apply to Wyong LGA.
5.7 Central Coast	
<ul style="list-style-type: none"> • Aims to ensure that land is zoned in accordance with the appropriate regional strategy for the Central Coast. • Applies to Wyong Shire council when council prepares a PP (draft LEP). 	<ul style="list-style-type: none"> • See Section 5.1
5.8 Second Sydney Airport: Badgerys Creek	
<ul style="list-style-type: none"> • Aims to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek. • Applies to land located within the Fairfield, Liverpool and Penrith City Council and Wollondilly Shire Council Local Government Areas. 	<ul style="list-style-type: none"> • Not applicable. • This direction does not apply to Wyong LGA.

6. Local Plan Making	
6.1 Approval and Referral Requirements	
<ul style="list-style-type: none"> • Aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development. • Applies when council prepares a PP (draft LEP). 	<ul style="list-style-type: none"> • Applicable. <ul style="list-style-type: none"> - The PP does not propose amendments which require concurrence, consultation, or the referral of development applications to an appropriate Minister or public authority; and - The PP does not identify any development as designated development. <p style="text-align: right;">(Consistent)</p>
6.2 Reserving Land for Public Purposes	
<ul style="list-style-type: none"> • Aims to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where land is no longer required for acquisition. • Applies when council prepares a PP (draft LEP). 	<ul style="list-style-type: none"> • Applicable. • The PP does not propose the reservation of any additional lands for public purposes nor are there any obsolete reservations which need to be addressed. <p style="text-align: right;">(Consistent)</p>
6.3 Site Specific Provisions	
<ul style="list-style-type: none"> • Aims to discourage unnecessarily restrictive site specific planning controls. • Applies when Council prepares a PP (draft LEP) to allow particular development to be carried out. 	<ul style="list-style-type: none"> • Applicable. • The PP is consistent with the <i>Direction</i> as the PP will rezone various parcels of land consistent with standard Instrument Provisions. <p style="text-align: right;">(Consistent)</p>

3.6 Works on Private Land as part of the Tuggerah Lakes Estuary Management Plan

TRIM REFERENCE: F2012/00327 - D03048962

MANAGER: Gina Vereker, Director

AUTHOR: David Ryan; Manager Estuary Management

SUMMARY

Section 67 of the Local Government Act 1993 (LGA) requires Council approval for works to be undertaken on private property. The works detailed in this report are in relation to the delivery of the Tuggerah Lakes Estuary Management Plan (EMP) and are funded through the Federal Government's "Caring for our Country" (CFoC) grant.

RECOMMENDATION

1 That Council approve the works detailed in Table A to be carried out on the following properties under the Tuggerah Lakes Estuary Management Plan. All works are to be at no cost to the property owner, being funded by the Federal Government's "Caring for our Country" grant:

- **Lots 21& 22 DP 5019, 121 to 123 Alison road Wyong**
- **Lot 23,24 &25 DP 5019, 125-129 Alison road Wyong**
- **Lot 26 DP5019, 131 Alison road Wyong**

BACKGROUND

The EMP has been developed to improve water quality, ecology, general amenity and the foreshore areas of Tuggerah Lake, Budgewoi Lake and Lake Munmorah. The EMP provides for a range of projects to be carried out over a five year period. A number of these projects relate to reducing the amount of sediment entering the lakes as a result of bank erosion in the various streams, creeks and rivers that discharge into the lakes. The works are being fully funded through the CFoC Federal Government grant.

One of the major focuses of the EMP and CFoC is reduction of sediment entering the estuary. The main way Council is addressing this problem is through streambank rehabilitation.

Following adoption of the EMP, Council has had Streambank Management Plans developed for the major creek systems in the Tuggerah Lakes catchment. These plans identify and prioritise erosion sites within these systems. The works described in this report were found to be priority 1 in the Wyong River Streambank Management Plan. Council's approval is required for the expenditure of the CFoC funds on private property.

CURRENT STATUS

Wyong Reach 74, is a large bank scour which exists across three private properties off Alison Road on Wyong River. The site is just downstream of the weir and has been estimated to generate over 2000 tonnes of sediment to the Wyong River over a ten year period. The site has oversteep banks, is undercut at the toe and does not currently support healthy vegetation. A relatively new exotic weed species, Kudzo, has been identified on the site and will be managed as part of the proposed works.

The proposed works terminate at the edge of an existing rock revetment (wall) which protects high pressure gas and oil pipeline crossings within a licensed pipeline easement managed by Jemena.

THE PROPOSAL**Works on Private Property**

Section 67 of the LGA relates to Council undertaking works on private property. This section outlines procedures for circumstances where Council expends public money to undertake works on private lands, and those works improve the land/provide the private landowner with a benefit (compared to where Council expends public moneys on public infrastructure/public benefit). Examples of such work referenced under this Section, which are relevant to works being undertaken under the EMP include excavation, rock toe protection, planting, tree maintenance, land clearing and tree felling and bank stabilisation works as applicable.

Where Council is undertaking these types of works on private property and does not have an approved fee, or is charging less than an approved fee, Council must, by resolution, approve the works before they are carried out. Funding for these works may be from various sources and are not necessarily revenue funds.

Where it is proposed to undertake works on private property, an agreement is entered into with the property owner relating to the in-kind contribution. Agreements are based on the following principles:

- Council, through CFoC funding, will provide all rehabilitation works.
- Council, through CFoC funding, will provide initial maintenance (up to 12 months) to establish tube stock planted as part of the works.
- The property owner will provide for the ongoing maintenance of any fencing and maintenance of revegetated areas after the initial maintenance period, including removal of reoccurring Weeds of National Significance (WoNS) and other environmental weeds for a minimum of five (5) years.

Should a major flood event occur that results in damage to rehabilitated areas, beyond that which could be carried out as part of normal maintenance, any resulting remedial works would be subject to a separate round of assessment under the EMP.

OPTIONS**1. Undertake a combination of construction works, weeding and planting.**

The most appropriate option for Wyong 74 site is to undertake rehabilitation work using a self launching rock toe structure together with bank battering and extensive replanting. This site has had comprehensive engineering design plans prepared due to the complex erosion issues and steepness of the bank in this location. A number of options were considered during the consultation process including installation of timber groynes however the option with the best factor of safety was the self launching rock toe design.

Part of the works will take place on private property across Lots 21, 22 & 23 DP 5019 burdened by the Jemena pipeline easement. Prior to commencing works Jemena will be required to provide concurrence on the suitability of the design to ensure that the design does not compromise the assets located within their easement. To date Jemena have been consulted and agreed in principle that the works should proceed but without adequate time to undertake their own formal assessment have not provided final signoff for the current design. A copy of Jemena's letter dated 26 Jul 2012 regarding the project is attached.

These works proposed above will meet targets in both the Estuary Management Plan and the Caring for our Country grant.

2. Do nothing.

If no works occur on site Wyong 74 erosion will continue with consequent delivery of excess sediment to the Tuggerah Lakes. As this site has been predicted to produce the highest quantity of sediment and is rated priority 1 in the Streambank Management Plan it is important to the overall success of the project.

3. Contribution by Land Owners

The properties affected will receive some benefit due to reduced loss of land by erosion following the works. These properties are however flood affected and development is severely impacted on the properties. There would be very limited increase in value of the properties due to the completion of the works and landholders are most unlikely to be willing to contribute to the cost of the works. Success of the works requires work to be carried out across all of the properties at one time and therefore contribution from landholders has not been sought. These works are primarily of benefit to the Tuggerah Lakes system by the reduction in very significant sediment loading which they will achieve. CFoC funding will cover the costs of the works on Reach 74 without any requirement for funding from Council revenue.

PROPOSED WORKS

As part of the 2012/13 works program for the EMP it is proposed to undertake construction work on the properties as detailed in Table A. These works will provide significant environmental and social benefits by stabilising areas identified as having a high erosion risk, and providing appropriate revegetation to assist in the long term sustainability of these works with consequent reduction in sediment load to Tuggerah Lakes.

Table A. Proposed Work on Private Property as Part of the Tuggerah Lakes Estuary Management Plan

Property Description	Extent of Proposed Work	Approximate Cost of Work (excl GST)
Lot 21-27 DP5019 Alison road Wyong	<ul style="list-style-type: none"> Self launching toe, rock reventment, battering of bank, weed control and revegetation across 3 properties 	\$585,600

STRATEGIC LINKS

Wyong Shire Council Strategic/ Annual Plan

Principal Activity	Service	Key Action and Objectives	Funding Source and Description	Impact on Key Performance Indicators/ Service Performance Indicators
Environment and Land Use	6.4 - EPS Major Projects Mgt	<ul style="list-style-type: none"> Implement Streambank, stormwater and wetland works to ensure that the quality of water meet the needs of the community and lakes and rivers. Ensure that the plants along the banks of the rivers, lakes and in wetlands are protected because these are essential to a healthy ecosystem Ensure that biodiversity and ecological integrity of the lakes ecosystem are maintained or enhanced. Ensure social and economic needs of the community are met while protecting the environment of the coastal zone. 	Caring for our Country funding for implementation of the Tuggerah Lakes Estuary Management Plan	This project contributes to the stream bank rehabilitation establishment KPI in the Major Projects Estuary Management Service Unit Business Plan

Contribution of Proposal to the Principal Activity

The proposed works are one of the identified projects under the EMP and will provide ongoing improvements to water quality in the affected stream and for water entering Tuggerah Lake.

Link to Community Strategic Plan (2030)

Priority Objective	How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan
Communities - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Residents of the community will have a better understanding of the importance and link between activities in the catchment impacting upon the Shire's sensitive creeks, rivers and lakes.
Facilities and Services - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	The residents within the Shire's water catchment areas will see this environmental project as an example of land use best practice.
Education - The community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life.	These works will educate the local community on the importance of their area to the estuary.
Employment - There will be a strong and sustainable business sector and increased local employment built on the Central Coast's business strengths.	Employees and local contractors will be working on these projects.
Natural Areas - Areas of natural value in public and private ownership will be enhanced and retained to a high level in the context of ongoing development.	The health of the Shire's waterways and natural areas will be enhanced by the restoration of the degenerated stream and the education of local community.
Environmental Programs - There will be a sense of community ownership of the natural environment through direct public involvement with environmental programs.	As part of the EMP, implementation of these projects will contribute to the community's understanding of the importance of the Shire's waterways and natural areas.

3.6 Works on Private Land as part of the Tuggerah Lakes Estuary Management Plan (contd)

Financial Implications

The works are fully funded through the EMP using Federal Government grant funding.

Principles of Sustainability

The works, when established, will provide a natural long term solution to stream degradation and erosion issues, as well as protection for the rivers and estuary.

Long term Financial Strategy

Nil impact.

Asset Management Strategy

Nil impact

Workforce Management Strategy

Nil impact.

Budget Impact

Nil impact.

CONSULTATION

Where rehabilitation works are proposed to be undertaken on private land, extensive discussions are held with owners to obtain their permission to undertake the works. This is a requirement under Section 67 of the LGA. Extensive consultation has occurred with landholders, relevant Council authorities, the Hunter Central Rivers CMA, the Office of Environment and Heritage, and the local community - particularly through the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee.

Consultation has also taken place with Jemena regarding works which will take place within their easement across lots 21, 22 and 23. The works are proposed to tie in with an existing rock revetment protecting their existing gas and oil pipelines. A copy of Jemena's letter dated 26 Jul 2012 regarding the project is attached.

GOVERNANCE AND POLICY IMPLICATIONS

Works have been approved by the Federal Government under its CFoC initiative.

CORPORATE RISKS

Risk	Possible Outcome	Mitigation Method
Risk of non-compliance with Section 67 of Local Government Act	Loss of Council reputation. Penalties from non-compliance	Obtain Council approval prior to expenditure of funds
Fraud and corruption allegations from favouring certain land-owners	Loss of Council reputation. Investigations into Council practices and possible penalties	Works identified in independently prepared Streambank Management Plan on behalf of Council for determining priority sites. Obtain Council approval prior to expenditure of funds
Risk of failure of the completed works	Council may be liable for rectification costs	Extensive engineering design and investigation has been carried out for these works to ensure that designs have adequate factor of safety. No buildings are threatened by failure of the current bank or by any future movement in the stabilised bank.
Risk of damage to Jemena assets due to failure of the completed works or damage during construction	Council may be liable for rectification costs	Approval has been sought from Jemena for the design, and to permit Council to work within their easement. Jemena have provided a letter of support for the project and will provide formal approval for the design and construction procedures to be followed prior to commencing works. Jemena will undertake their own internal design review and provide supervision of works across their easement at no cost to Council. In the event additional works are foreseen by Jemena to enhance the existing rock revetment above their pipelines, these works would also be undertaken at no cost to Council.

MATERIAL RISKS AND ISSUES

Nil impact.

CONCLUSION

It is proposed to undertake the described rehabilitation works on private property to achieve the objectives of the EMP utilising funding through the Federal Government's CFoC grant. The works listed in Table A (above) are budgeted for in the CFoC grant and are scheduled for completion in the 2012/13 financial year (scheduled for works and expenditure prior to 31st December 2012) as part of the EMP. The works will have many environmental and social benefits for the community. Council approval is therefore recommended for the undertaking of these works on private property at no direct cost to the property owner.

ATTACHMENTS

1	Map Reach 74	D03049376
2	Site Photos	D03049377
3	Letter from Jemena dated 26 July 2012	D03079827
4	Engineering Plans	Enclosure D03050252



FOR INTERNAL USE ONLY Scale 1:2350





26 July 2012



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Dear Mr Ryan

**Re Proposed Streambank Rehabilitation Works Adjacent Jemena Pipeline
Crossing at Alison Road, Wyong**

I refer to your letter of 18 July 2012 about Council's plans to undertake remedial works on the banks of the Wyong River, both upstream and adjacent to Jemena's high pressure gas pipeline.

Jemena is pleased that Council is planning to undertake these works, which appear to be broadly consistent with recommendations by Jemena's consultants Coffey and Partners and Patterson Britton. We agree in principle that it would be beneficial for the works to proceed subject to Jemena's formal assessment occurring (eg engineering assessment), suitable design and construction methodology and subject to terms and conditions.

Jemena appreciates Council's urgent time frames for Federal funding purposes. However, unfortunately due to the lateness of the proposal received from Council (18 July 2012), as a matter of practicality Jemena will have insufficient time to carry out the engineering assessment to determine the appropriate steps and whether Council's works on Jemena's easement would be consistent with Jemena's pipeline licence obligations.

Jemena will continue to work cooperatively with Council to see this work proceed, but can only do so with the fullness of time required to make a proper assessment given that it involves permanent works to be tied into works previously undertaken that are located on Jemena's easement. Based on the information presently available at this stage, Jemena affirms its expression of intent in principle to allow the works to occur, subject to satisfactory results from the engineering and safety assessment and any issues arising being suitably addressed.

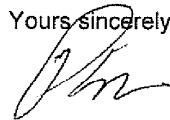
Jemena understands that it will cover its own costs with respect to both oversight of the construction activity on its easement and internal engineering review as per council's proposal. In order to ensure scheduling of the oversight of the Council's works (stand-by), Jemena would need 2 weeks notice, through George Apostopoulos – Jemena Land Service.

Jemena understands that Wyong Council's works have been designed to tie into the existing revetment and meet the overall hydrological requirements for the river bank in this vicinity. In consideration of this proposed design, at this time, Jemena does not foresee any necessity to enhance its existing works. However, as a means of reviewing any opportunity for enhancement, Jemena is in the process of working with your

designer, Worley Parsons. This design review is at Jemena's expense. Subject to this review, if Jemena is to undertake any enhancement to its existing works, we will continue to work with council and review the opportunities for sharing of suitable resources as per your letter dated 18 July 2012.

I hope that this letter provides Council with sufficient basis to proceed with obtaining budget funding for this project. In the meantime Jemena's engineering staff will work to complete their assessment of Council's proposed works as expeditiously as possible. Council's contact should continue to be Mr George Apostopoulos (phone: 9397 9437, email: george.apostopoulos@jemena.com.au).

Yours sincerely



Philip Colvin

Manager Engineering Strategy & Planning

3.7 Policy on Control of Open Burning

TRIM REFERENCE: F2004/06929 - D03050306

MANAGER: Greg White, Manager Environment and Natural Resources

AUTHOR: David Lemcke; Senior Planner

SUMMARY

The Office of Environment and Heritage (OEH) has advised that councils are able to review their listing on Schedule 8 of the Clean Air Regulation (2010) which currently prohibits open burning of vegetation within Wyong Shire. This report details the recommended changes and requests that Council approve the exhibition of a draft Policy to support the new listing. The proposed change will minimise paperwork for residents and ratepayers on large lots who take responsibility for bush fire preparedness.

RECOMMENDATION

- 1 That Council place the draft Control of Open Burning Policy on public exhibition for a period of four weeks.**
- 2 That Council adopt the Control of Open Burning Policy, subject to there being no objections as a result of public exhibition that cannot be reasonably addressed and give appropriate public notice.**
- 3 That following the adoption of the Policy, Council approve amendment of the Strategic Plan to incorporate the fee to permit Open Burning.**
- 4 That following the adoption of the Policy, Council request the Office of Environment and Heritage – Air Policy Unit to list Council on Parts 2 and 3 of Schedule 8 of the Protection of the Environment Operations (Clean Air) Regulation 2010.**

BACKGROUND

Since the introduction of the Protection of the Environment Operation Act (1997) (POEO Act) and Regulations, Council has been listed within the Clean Air Regulations in Part 1 of Schedule 8 – Local Government Areas in which burning is prohibited. Local Government Areas listed under Part 1 listed councils require approval from the Environment Protection Authority (EPA) to undertake a pile burn. A listing under Part 2 and/or Part 3 of the Schedule means Council may grant approval for certain types of burning.

Essentially this mean residents and ratepayers cannot dispose of dry and dead vegetation on their properties through burning. Within residential areas, just as in metropolitan cities, this is considered appropriate to protect air quality and prevent nuisance. It is considered the 240 litre vegetation bin issued to residents is an adequate method for disposing of and recycling garden waste.

3.7 Policy on Control of Open Burning (contd)

In residential areas major vegetation removal is an infrequent event which could reasonably be disposed of at Buttonderry Waste Facility.

However, for rural residents, and those on larger allotments (>4000m²), there is frequently an excess of material that can only be reasonably managed through pile burning onsite. Until recently, The Lakes Team Rural Fire Service (RFS) was able to assist these residents by issuing a Hazard Reduction Certificate (HRC). The RFS has recently advised however that this process is not technically correct and they will no longer be able to issue a HRC to permit a pile burn.

The result is that many residents who use the winter months to burn off vegetation they have collected on their property are unable to obtain permission to dispose of this dead and dry vegetation. Council has received correspondence from 10 residents in rural areas requesting a policy change be made to permit this activity.

Should Council amend the listing to Part 2 & 3 of Schedule 8 (POEO Regulations) a “class of person approval” can be developed to simplify procedures and encourage residents to manage their properties to reduce bush fire risk.

CURRENT STATUS

The problem has become evident since mid-2011 and Council subsequently approached Hunter & Central Coast Regional Environmental Management Strategy (HCCREMS) for assistance to develop a regionally consistent template for a suitable Control of Open Burning Policy. This was developed in close consultation with Council and RFS staff.

The RFS has noted that an additional advantage will be the reduction in administrative load associated with these minor pile burns. This has been estimated to consume up to 1100 staff hours per annum, which could be better utilised in planning and delivering more significant hazard reduction activities.

The following table outlines a selection of councils with their current listing in the Regulations. This suggests it would be more appropriate for Wyong to list in Part 2 & 3 in line with other outer metropolitan and coastal councils.

Table 1: Selected Councils from POEO Clean Air Regulations Schedule 8

Part 1 Councils – open burning prohibited	Part 2 & 3 Council – open burning permitted
Bankstown	Blue Mountains
Manly	Coffs Harbour
Mosman	Great Lakes
Ryde	Hawkesbury
Strathfield	Hornsby
Waverley	Port Stephens

THE PROPOSAL

The purpose is to develop a simple and practical policy to allow responsible large land owner/managers in appropriate areas to undertake safe pile burns to dispose of dead and dry vegetative material that accumulates on their property. This must incorporate measures to ensure fire safety, protect the community from nuisance, and minimise air quality impacts. The draft Policy and Application Form provide a framework for Council to support pile burning where appropriate, recover reasonable costs and support the community and RFS in an effective and consistent manner. Relevant conditions to be followed are on the application form and procedures are consistent with all RFS requirements and standards.

The proposal requires payment of an annual fee of \$70.00 and submission of an application form for each pile burn to be undertaken. Fees collected assist to administer the system, with any revenue greater than cost recovery used within the relevant bush fire management budget. After payment of the appropriate fee, Council would provide a receipt number to the property owner which can be quoted for subsequent applications for additional pile burns within that calendar year. This would facilitate electronic lodgement of subsequent forms.

Inspections undertaken in accordance with the proposal would also be an opportunity to undertake informal community engagement regarding improved bush fire risk mitigation with individual property owners/residents. Under the adopted Wyong Bush Fire Risk Management Plan (BFRMP), Council has the responsibility to undertake or support approximately 120 targeted community engagement activities each year in areas of Extreme / Very High / High bush fire risk.

Recording of pile burn activity will allow improved reporting on bush fire preparedness and allow better targeting of future community engagement. In addition, the notification requirements to the RFS will reduce the number of unnecessary incident call outs that volunteer RFS Brigades are required to attend. The proposal is consistent with all relevant policy documents of the RFS and Fire & Rescue NSW.

The proposal will provide Council staff or contractors engaged in maintaining Asset Protection Zones (APZs) on Council land with an additional method of disposing of significant quantities of material generated in the ongoing expansion and establishment of new sites. Disposal of material as opposed to recycling would be subject to the standard environmental assessment on a site by site basis. This would be separately trialled following suitable training by the RFS.

OPTIONS

Do nothing – continue with current listing

Rural residents would continue to be unable to undertake pile burning as the Environment Protection Authority does not have a streamlined system or resources to issue permits. Council and the RFS would continue to field multiple enquiries and be unable to offer practical assistance.

Residents are currently required to use other methods such as depositing green waste at Buttonderry Waste Management Facility or commercial services. Due to the costs associated with this approach, some level of illegal dumping is anticipated. This leads to spread of weeds, and additional costs to manage any illegal dumping.

3.7 Policy on Control of Open Burning (contd)

Ultimately, there would likely be some reduction in bush fire preparedness. This is of particular concern given that the areas targeted by the draft policy generally are those areas identified as Extreme / Very High / High in the adopted BFRMP.

Change listing and introduce policy – no fee applicable

Rural residents would be able to undertake pile burning as per the proposal but would not be required to pay the annual fee.

Council would be unable to recover costs associated with administration of the policy or for auditing of pile burns to ensure compliance with the policy. The RFS have been undertaking 200-300 applications for pile burns per annum in recent years which would equate to a potential loss of \$14,000 - \$21,000 in revenue.

Change listing and introduce policy – fee applicable for each burn

Rural residents would be able to undertake pile burning as per proposal but would pay a fee for each pile burn undertaken.

In a number of cases residents choose to undertake multiple burns over the course of the year in various locations. Separate applications requiring a fee each time would likely discourage residents from undertaking and reporting activities in accordance with the Policy. There may be a perception that Council is charging excessively, hindering hazard reduction activity, or driving business to the Buttonderry Waste Management Facility.

STRATEGIC LINKS

Wyong Shire Council Strategic/ Annual Plan

<i>Principal Activity</i>	<i>Service</i>	<i>Key Action and Objectives</i>	<i>Funding Source and Description</i>	<i>Impact on Key Performance Indicators/ Service Performance Indicators</i>
Principal activity 05.02 – Compliance and Regulation	Public Health and Safety	To ensure compliance with statutory requirements in a professional manner. To provide support for the community in dealing with domestic animals, noxious weeds and other regulatory matters in order to build a sense of community safety, cohesion and pride.	Annual fee and administered through work program of Environment and Natural Resources Unit.	Nil

<i>Principal Activity</i>	<i>Service</i>	<i>Key Action and Objectives</i>	<i>Funding Source and Description</i>	<i>Impact on Key Performance Indicators/ Service Performance Indicators</i>
Principal activity 06.01 – Environment and Natural Resources	Environment and Land Use	To provide strategic policy and planning, which enhances the Shire's natural resources and leads Council and the community towards a more sustainable future.	Reviewed as part of Environment and Natural Resources Unit work program.	Nil
Principal activity 07.01 - Waste	Waste	To provide safe, reliable and environmentally responsible waste collection and disposal services. To help reduce the Shire's environmental footprint.	N/A	Will assist Integrated anti-Litter and Illegal Dumping Plan.
Principal activity - 12.09 Plant, Fleet and Depot	Administration	To provide the support services of plant and fleet management and provision, depot operation and emergency service response to help ensure sustainability and fiscal responsibility.	N/A	Will reduce RFS staff hours spent on minor matters.

Long term Financial Strategy

The proposal is aligned with the Long Term Financial Strategy by assisting the community to take more responsibility for bush fire mitigation measures, and by recovering costs to administer the program.

Asset Management Strategy

The proposal is aligned with the Asset Management Strategy as it provides assistance to Council staff and contractors maintaining bushland reserves, provides a simple method for residents to dispose of dead and dry vegetation rather than dumping in reserves, assists Landcare groups, assist residents in maintaining fire trails and provides opportunities for engagement with residents regarding management of bushland reserves.

Workforce Management Strategy

Nil impact.

Link to Community Strategic Plan (2030)

The proposal is aligned with Objectives 4 and 5 of the Community Strategic Plan (2030), in particular, by assisting the community to be actively involved in suitable management of the natural environment on private land. There is an opportunity for community engagement regarding bush fire protection that can also be used to improve understanding of weed management and related issues.

The proposal also allows for a simpler process for Landcare groups to use burning as part of land management activities. Fees are waived for Landcare groups, burning will be undertaken by Council staff or the RFS under supervision of Council's Landcare Coordinator.

Budget Impact

As outlined above, the proposal is to require an annual administration fee of \$70.00. This fee is the difference between the Domestic Waste Management fees paid for those properties East (\$460.00) and West (\$390.00) of the F3 Freeway. The rationale is properties East of the Freeway pay the additional fee for the provision of a 240 litre vegetation bin that is collected fortnightly. This is also the fee to request an additional vegetation bin. Therefore, those residents wishing to use pile burning to appropriately dispose of vegetation will pay fees consistent with residents in residential areas. Those residents who choose not to participate or use other methods to dispose of vegetation (mulching, composting etc) will not be required to pay any additional fee.

During discussion with numerous residents, the local RFS and other councils it was considered that if fees were proposed higher than this level it may be counter productive as people may simply undertake burning without permission.

The fee would cover the cost of administration and allow for limited inspections. Inspections are proposed using a random audit method, or as considered necessary, as the proposed fee is unlikely to cover the costs of staff time to undertake inspections. The number and type of inspections required would be continually reviewed to ensure costs are minimised. Initial community engagement to explain the policy would also be undertaken.

CONSULTATION

Council has consulted with the NSW Office of Environment and Heritage - Air Policy Unit (OEH), and formally advised them of the intent to introduce a policy and change the listing on Schedule 8 of the Regulations. Once the policy is formally adopted, OEH will be advised and will move to undertake the listing in Parts 2 and 3 of Schedule 8.

HCCREMS undertook a project to develop a consistent policy template for Open Burning for all councils in the region. The template produced is the basis for the proposed Policy. Regional consistency is considered helpful to both the public and fire authorities. This clarifies what is permitted and reinforces a consistent message that residents in fire prone areas need to, and can, take some responsibility for mitigating bush fire risk. Council staff have had significant input into the development of the template.

3.7 Policy on Control of Open Burning (contd)

The proposal was developed, in part, by considering the policy platforms of other councils listed on Parts 2 and 3 of the Regulations and discussing the outcomes with relevant staff at other councils. There is a wide variety of policies, generally differing in the area of whether or not fees are required, inspections are undertaken (randomly/always) and whether formal applications are required and records maintained. The proposal is based on achieving a suitable balance between these requirements given the need to report on Hazard Reduction initiatives, practicalities of inspections and the likely costs of administering the system.

The Wyong Bush Fire Management Committee (BFMC) has been involved in the development of the policy and has formally considered the draft that has been developed. The BFMC has sent a formal letter of support (30 January 2012) requesting that Council adopt the policy and amend the listing under Schedule 8 of the Regulations. Both the RFS and Fire & Rescue NSW have commented on the policy to ensure it is consistent with relevant policy and regulation.

Council is currently undertaking a Major Project – Review of Emergency Management Procedures (p.92 Strategic Plan 2012-2016) and relevant stakeholders have been consulted on the working group. The proposal is aligned with the objectives of the review.

Relevant internal Units and staff have been consulted including Open Space, Land Use Planning and Policy, Customer Contact and Development Assessment Unit. Feedback has been incorporated into the draft policy and application form.

Lake Macquarie City Council and Gosford City Council have been consulted, and have advised that at this time they have no plans to change their listings on Schedule 8.

GOVERNANCE AND POLICY IMPLICATIONS

Should Council approve the Policy on Open Burning, OEH will be formally notified and requested to amend the Protection of the Environment (Clean Air) Regulation 2010 to change Council's listing from Part 1 (burning prohibited) to Parts 2 and 3 (burning permitted with approval).

MATERIAL RISKS AND ISSUES

There is a potential risk that members of the public will misinterpret the policy. This has been mitigated through the use of "plain English" language within the Policy and the Application Form. In addition, there has been extensive consultation with the NSW RFS and it is well placed to assist the public in adapting to the new procedure.

There is a potential risk that costs associated with the proposal will not be covered by the fees imposed. This is mitigated by using a simplified set of procedures and providing for a random audit program rather than committing to audit every application. Ongoing procedures will be managed within the Environment & Natural Resources Unit and the Policy will be reviewed regularly to ensure it is meeting the needs of the community at a reasonable cost.

CONCLUSION

Under Council's current listing on the Protection of the Environment (Clean Air) Regulation 2010, residents on large lots in rural areas are unable to undertake pile burns to remove large quantities of dead, dry vegetation. This hinders the ability of residents to take responsibility for bush fire mitigation activities.

The Lakes Team RFS has previously used the Hazard Reduction Certificate (HRC) process to permit open burning, however this was resource intensive for limited bush fire mitigation outcomes. It has advised Council that due to an updated interpretation of this process it is no longer able to offer this service.

There is a clear community need to undertake these works as part of residents bush fire preparedness, and this is evidenced by 10 letters requesting Council to introduce a policy that will permit regulated open burning.

The proposed policy limits open burning to large lots in particular areas only, and has been designed to limit nuisance and potential risk of fire escape. The policy is consistent with all policy guidelines of the fire agencies and significant consultation has been undertaken.

The Wyong BFMC has formally asked Council to undertake this policy reform.

The policy allows for reasonable cost recovery with an annual fee of \$70.00 which is in line with the cost of the vegetation bin provided to residential ratepayers east of the F3 Freeway.

ATTACHMENTS

- | | | |
|---|---|-----------|
| 1 | Draft Policy on Control of Open Burning | D03055848 |
| 2 | Draft Application Form for Open Burning of Vegetation | D03055833 |



Wyong Shire Council

POLICY FOR CONTROL OF OPEN BURNING

Policy No: WSC065

Policy Author: David Lemcke, Environment & Natural Resources



**History of Revisions:**

Version	Date	Authority	TRIM Doc. #
1	July 2012	Director Environment & Planning	D03055848
2			
3			

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A. POLICY SUMMARY

- A.1 This policy provides WSC with direction on the issuing of approvals to burn dead and dry vegetative material in the open in accordance with the *Protection of the Environment Operations (Clean Air) Regulation 2010*.
- A.2 The policy outlines under what conditions an approval to burn dead and dry vegetative materials in the open will be granted, and what information must be submitted to WSC.
- A.3 The policy provides approval for a "class of persons" to undertake pile burns on specified land. This approval is provided to assist residents and land owners to conduct ongoing maintenance of their property and take responsibility to mitigate bush fire risks.
- A.4 Pile burns are only one part of the suite of measures residents may need to undertake to help manage bush fire risk. Residents in bush fire prone areas should refer to information provided by the NSW Rural Fire Service for further assistance – www.rfs.nsw.gov.au

B. POLICY BACKGROUND

- B.1 Open burning is regulated across the State of New South Wales by the *Protection of the Environment Operations (Clean Air) Regulation 2010*. The intention of the Regulation is to manage the air pollution issues associated with burning, with a view to protecting local and regional air quality, local amenity and human health.
- B.2 Councils in NSW can restrict or control burning within their Local Government Areas by choosing to list on Schedule 8 of the Regulation. There are three parts of Schedule 8. Councils can nominate for listing on any part depending on the controls seen as appropriate for that area.
- B.3 The listing of WSC as a Part 2 / Part 3 area on Schedule 8 of the *Protection of the Environment Operations (Clean Air) Regulation 2010* facilitates the burning of dead and dry vegetative material which accumulates on the prescribed parcels of land during normal use of that land, and that cannot reasonably be disposed of via mulching, composting, green waste services etc.
- B.4 Part 2 of Schedule 8 states that a person must not burn any vegetation in the open or in an incinerator except in accordance with an approval.
- B.5 Part 3 of Schedule 8 states that a person must not burn anything (other than vegetation) in the open or in an incinerator except in accordance with an approval.
- B.6 The burning of these materials can only occur under approved circumstances and under appropriate conditions detailed in section E of this policy.
- B.7 This policy does **NOT** provide:
- approval to burn the land for bush fire hazard reduction; or
 - approval to clear vegetation; or
 - approval to burn vegetation resulting from the clearing of land subject to development consent under the *Environmental Planning and Assessment Act (1979)*, or any other approval.
- B.8 WSC is allocated the authority to issue approvals for the burning of dead vegetation under Part 2 of Schedule 8 of the Regulation.

- B.9 Under the regulation, WSC has the power to issue approval for a “*class of persons*” to burn vegetation, or, for all other residents, individually through the approval of an application to burn.

C. DEFINITIONS

- C.1. **WSC** means Wyong Shire Council, being the organisation responsible for the administration of Council affairs and operations and the implementation of Council policy and strategies.
- C.2. **Schedule** refers to Schedule 8 (Local Government Areas in which burning is prohibited) in the *Protection of the Environment Operations (Clean Air) Regulation 2010* under the *Protection of the Environment Operations Act 1997*.
- C.3. **Approval** means an approval to burn vegetation in Wyong Shire.
- C.4. **Domestic waste** means waste (other than vegetation) that is of a kind and quantity ordinarily generated on domestic premises.
- C.5. **Open burning** (sometimes referred to as backyard burning or pile burning) is defined as the act of burning anything in the open air.
- C.6. **Class of person** is any group of persons granted authority to burn excess vegetation in Wyong Shire:
- That cannot reasonably be disposed of by Council’s green waste service (where available) or mulching onsite, and
 - in accordance with “Standards for Pile Burning”, and
 - under conditions specified in this policy, and
 - following the submission to Council of the relevant information on the form provided by Wyong Shire Council, and
 - payment of an annual fee.
- C.7. **Prohibited Article** means any of the following:
- tyres
 - coated wire
 - paint containers and residues
 - solvent containers and residues
 - timber treated with copper chromium arsenate (CCA) or pentachlorophenol (PCP)

D. POLICY STATEMENTS

- D.1 The burning of anything in WSC local government area is prohibited except in accordance with an approval under Schedule 8 Part 2, or Part 3, of the *Protection of the Environment Operations (Clean Air) Regulation 2010*.
- D.2 WSC will provide approval for the open burning of dead and dry vegetative material to parcels of land that meet the prescribed criteria (Part 2). Such approval is intended for properties generally not in urban areas that have a large number of mature trees, which are likely to generate larger than average quantities of vegetative debris.
- D.3 Burning must minimise smoke impacts and ensure the fire is managed safely.
- D.4 The Environment Protection Authority may provide approval for any burning of material other than dry vegetation under Part 3 – this must be obtained prior to notifying WSC or emergency services.

- D.5 Before granting the approval for open burning of dead and dry vegetative material WSC has taken into consideration the following issues:
- The impact on regional air quality
 - The impact on local air quality
 - The feasibility of re-use, recycling or other alternative means of disposal
 - The views of the sector of the public likely to be affected by the proposed approval
 - The views of the Environment Protection Authority in relation to a proposed approval to any class of persons.

E. POLICY IMPLEMENTATION - PROCEDURES

E.1 Class of Person approval:

A standing *class of person* approval for the burning of dead and dry vegetative material may be issued to the following land owners / managers under Section 13 (2) (a) of the *Protection of the Environment Operations (Clean Air) Regulation 2010*.

Land managers in these areas need to make application to burn a pile of dead vegetation on their property.

When the prescribed criteria for the land are fulfilled and the land manager agrees to comply with the "General Conditions of Consent", the application will be deemed to be approved.

Parcels of land must be:

- greater than **4000m²** in area; and
- zoned **1(a), 1 (c), 6(a), 6(b), 7(a), 7(b), 7(c), 7(f), 7(g) or 10(a)** under the Wyong Local Environmental Plan 1991.

- E.2 The relevant Application for Open Burning of Vegetation form must be filled out, submitted to WSC and any fee paid at least seven (7) days prior to the first proposed date of the pile burn. The application is deemed to be approved if all conditions are complied with. The approval is valid seven (7) days after submission to WSC. This allows time for audit of piles by WSC staff prior to lighting. WSC staff will undertake audits as necessary.
- E.3 WSC will keep a record of all applications for pile burning. WSC will undertake selective audits as required to ensure compliance with submitted information.
- E.4 Once the application is approved the applicant has ninety (90) days from the date of submission to undertake the pile burn. If the pile burn is not undertaken within this time a new application will be required.
- E.5 One annual fee is payable per property and covers all pile burn applications for that property in the calendar year in which the payment is made.
- E.6 **General conditions of consent:**
- An open fire must be at least 20 metres from any dwelling.
 - Adequate water supplies must be immediately on hand to extinguish the fire if required.
 - Adjacent property owners must be given 24 hours notice (verbal or written) of an intention to burn.
 - An open fire must be supervised by a responsible adult at all times.

- All combustible material within 4.5 metres of the fire must be removed.
 - Burning should only take place when weather conditions are suitable with winds under 15km/h and predicted to remain so.
 - Burning should not cause nuisance to neighbours or a smoke hazard to traffic.
 - The lighting of open fires is not permitted before sunrise or after sunset.
 - Activities must be undertaken in accordance with the NSW Rural Fire Service / Fire and Rescue NSW document "Standards for Pile Burning" [RFS "Standards for Pile Burning"](#)
 - Land managers/owners must contact the Rural Fire Service 24 hours prior to the intended time of burning, and one (1) hour prior to lighting – RFS The Lakes Team - 1300 661 401.
 - Land managers/owners in a Fire & Rescue NSW district must first apply to WSC, and then obtain a Fire Permit from Fire & Rescue NSW. Owners/managers then must comply with the conditions stipulated on the Fire Permit.
- E.7 Land managers outside of the areas noted at E.1., approval will only be granted subject to an application and assessment of the burning proposal by either WSC (*Part 2 listing*) or the Environment Protection Authority (*Part 3 listing*).
- E.8 Approval to burn under this policy is only for the purpose of disposal of dead and dry vegetative material through pile burning. Vegetative material must consist only of that which accumulates on the prescribed parcel of land during the normal use of the land.
- E.9 An "approval to burn" does **NOT** mean approval to burn for any other purpose such as:
- hazard reduction burning of the land, or
 - land clearing, or
 - disposal of vegetation cleared in accordance with a development consent.
- E.10 WSC cannot approve the burning of domestic waste where a waste service is available.
- E.11 WSC cannot approve the burning of prohibited articles.
- E.12 During the Bushfire Danger Period (usually 1 October to 31 March), a Fire Permit must be obtained from the Rural Fire Service for open burning anywhere in a Rural Fire District.
- E.13 A Fire Permit must be obtained from Fire and Rescue NSW or the NSW Rural Fire Service for any open burning that might threaten a building (generally urban areas) at any time of year, for their respective fire districts.
- E.14 This approval does not remove the necessity or exempt the person from the requirement to obtain relevant permits or licences as may be under other legislation including the *Rural Fires Act, 1997*, *Protection of the Environment Operations Act, 1997*, *Threatened Species Conservation Act, 1995*, or *Native Vegetation Act 2003*.
- E.15 No open burning can be undertaken on declared "No Burn Days" (related to air pollution) or "Total Fire Bans" (related to bush fire safety) that may be declared. This approval is suspended on such days.

It is the responsibility of the approval holder to identify whether one of these days is occurring prior to lighting their fire.

- E.16 Where WSC intends to use open burning to dispose of material generated through hazard reduction activities on WSC-controlled land it may do so without payment of the relevant fee. WSC staff may only undertake open burning where an application form has been lodged, or other environmental approval obtained, and where suitable training has been provided by the NSW Rural Fire Service to safely undertake the activity.
- E.17 Where a WSC supported Landcare group intends to use open burning to dispose of material generated through land management activities it may do so without payment of the relevant fee. The relevant application form must be lodged in accordance with this Policy. Burning will be undertaken by WSC staff or the NSW Rural Service under supervision of the Landcare Coordinator.
- E.18 It is intended to review this policy no later than two (2) years after the date of adoption.

Associated documents

- E.19 The following associated documents and procedures should be read in conjunction with this Policy:
- i Wyong Local Environmental Plan 1991
 - ii Application for Open Burning of Vegetation Form

**Made under Clause 13 of the Protection of the Environment Operations (Clean Air) Regulation 2010
Wyong Shire Council is listed in Part 2 and 3 of Schedule 8.**

This permit is valid seven (7) days from the date of payment if all criteria are met.

Burning must be undertaken within ninety (90) days from the date of payment or a new approval is required.

Council undertakes random audits to ensure compliance.

Advice: Obtain a permit from the NSW Rural Fire Service (during fire season) or Fire & Rescue NSW (always).

Applicants details

Applicant Name _____

Date _____ / _____ / _____

Address _____

Telephone () _____ Fax () _____

Email _____

Property details – where is proposed burn to take place

Address of Property _____ As above

Lot(s) _____ DP(s) _____

Size of Property _____

Property zoning _____

Reason for Burning – please describe why burning is required. It should be noted that in residential areas other methods of disposing are available and burning will only be permitted with approval of the NSW EPA

Date of Proposed Burn _____ / _____ / _____ Time of proposed burn _____

Adequate water supply available Yes No

Type of water supply available _____

Neighbours informed of intention to burn Yes No

RFS will be informed 24 hours prior to burning and 1 hour prior to burning

I declare that the burn pile does not include tyres, paint or solvent containers/residues, coated wire treated timber and/or vegetation grown on a property other than noted above

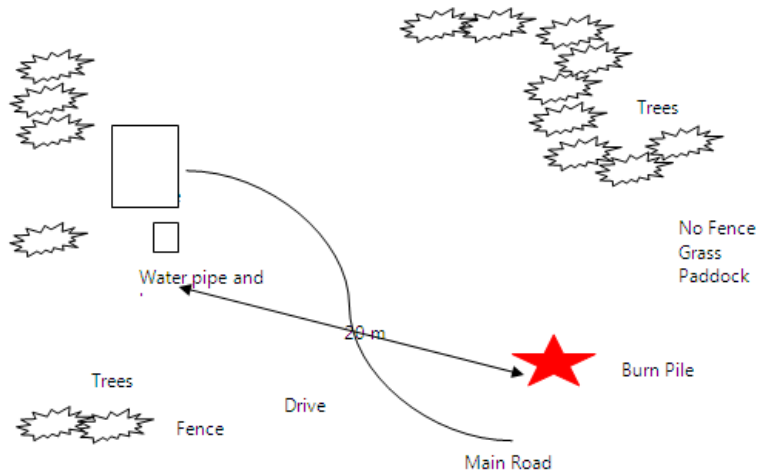
Signature/s: _____

Date: _____

_____ / _____ / _____

Site Plan

Please attach a [Site Plan](#) of the area surrounding proposed burning as per this example:



Conditions of Consent

1. Twenty four hours prior notice must be provided to owners/ occupiers of adjoining land, including land that is separated by a lane, road or waterway. The notice must specify location, purpose and time frame of the fire.
2. Extinguishing the fire should wind conditions result in the transport of smoke directly impacting neighbouring properties, residences or public roads.
3. You must ensure that you have sufficient water supply and/or fire extinguishers to extinguish the fire.
4. All works should be in accordance RFS "Standards for Pile Burning" with the Rural Fire Service Guidelines for Pile Burning.
5. This permit must be retained on-site for inspection by any authorised person while the fire is in progress or used and maintained in accordance with the conditions of the permit.
6. In the event of a Total Fire Ban being declared this permit is suspended for the entire period of the ban. Any existing fire must be immediately extinguished.
7. In the event of a No Burn Day being declared, this permit is suspended for the duration of the declaration.
8. A fire may only be lit on land where it is consistent with any Bush Fire Risk Management Plan applying to the land.
9. This permit is subject to variation, suspension or revocation by the appropriate authority, verbally or in writing
10. Council is to be notified in writing of the completion of the works subject to this approval, including details of any complaints received during the period of the approval.
11. In addition, this permit is granted subject to the following extra conditions – Attached if required.

Office Use Only

Decision _____ Permit number _____

Authorised Officer _____ Date ____ / ____ / ____

Signature _____ Burn Pile inspected _____

CCO name _____ Annual Fee _____

Receipt number _____

Date range for Burn

Valid from: ____ / ____ / ____ Valid to: ____ / ____ / ____

Permit is subject to any conditions attached and signed by the Authorised Officer.
 Failure to comply with these conditions may result in cancellation of the permit and a penalty.
 A copy of this permit MUST be available for inspection at the address/place to which the permit relates, on demand by an Authorised Officer.

4.1 CPA/211469 - Collection of Bulk Mixed Waste and Recyclable Materials for Central Coast Holiday Parks

TRIM REFERENCE: CPA/211469 - D03040930

MANAGER: David Witherdin, Manager Contract and Project Management

AUTHOR: Kristy Martin; Projects Officer

SUMMARY

Evaluation and selection of tenders for Contract No. CPA/211469 - Collection of Bulk Mixed Waste and Recyclable Materials for Central Coast Holiday Parks.

RECOMMENDATION

- 1 That Council accepts the tender from the company nominated as Tenderer '5' in the attached Tender Evaluation Report, for a period of up to 3 years for Contract CPA/211469 – Collection of Bulk Mixed Waste and Recyclable Materials for Central Coast Holiday Parks. The estimated expenditure against this contract is \$565,578.61 over 3 years (excl GST), however actual expenditure may vary significantly with fluctuations in demand.**
- 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 1.**
- 4 That Council delegate authority to the General Manager to extend the contract for an additional 2 years if this option is to be exercised.**

BACKGROUND

The Contract will encompass the provision of Bulk Mixed Waste collections services, Bulk Recyclable Material collection services and provision of cleaning and maintenance to bulk bins and containers for Council's four (4) Holiday Parks.

The Holiday Parks and their locations are:

1. Toowoomb Bay Holiday Park – Koongara St, Toowoomb Bay NSW
2. Norah Head Holiday Park – Victoria St, Norah Head NSW
3. Canton Beach Holiday Park – Oleander St, Canton Beach NSW
4. Budgewoi Holiday Park – Weemala St, Budgewoi NSW

The current contract for the provision of Bulk Mixed Waste collection services is set to conclude on the 30 September 2012.

4.1 CPA/211469 - Collection of Bulk Mixed Waste and Recyclable Materials for Central Coast Holiday Parks (contd)

INVITATION TO TENDER

The tender was advertised in the Sydney Morning Herald, Advertiser and eTender on 15/05/2012 to 7/06/2012

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

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

- 1 Clarification of contract start date and overflow clause (22/05/2012).
- 2 Changes to schedules (25/05/2012).

Tenders closed at Council's Chambers at 2.00pm on 7/06/2012

TENDER SUBMISSIONS

5 Submissions were received from the following organisations and are listed below in alphabetical order.

Company
Fretus Waste Services Pty. Ltd.
Sita Australia Pty. Ltd.
Thiess Services Pty. Ltd.
Transpacific Cleanaway Pty. Ltd.
Veolia Environmental Services 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:

- a) Compliance with Tender documents, including lodgement of tender by specified time.
- b) Evidence of corporate systems to manage environmental, safety and quality risks.
- c) Satisfactory financial capability assessment
- d) Assessed level of Local Content (refer Local Preference Policy – Procurement)
- e) The tendered price and structure; as well as any other potential costs to Council that may be identified
- f) Experience in the specific field

4.1 CPA/211469 - Collection of Bulk Mixed Waste and Recyclable Materials for Central Coast Holiday Parks (contd)

- g) Past performance
- h) Evidence of satisfactory implementation of corporate systems to manage environmental, safety and quality risks
- i) Ability to complete the service in accordance with the tender documents

FINANCIAL IMPLICATIONS

The funds will be provided through the revenue / income generated from the Holiday Parks.

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 existing contract for collection of waste services at Council's holiday parks will conclude on the 30 September 2012.

Waste services under this new contract will commence on 1 October 2012 and is to be a 3 year contract completed on 30 September 2015. This contract has an additional 2 years extension option.

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 Attachment - T145 Tender ~ Collection of Bulk Mixed Waste and Recyclable Materials for Central Coast Holiday Parks(2) (Distributed under Separate Cover) - | D03058505 |
|--|-----------|

4.2 CPA/211385 - Expressions of Interest for Central Coast Pumps and Pipes Panel

TRIM REFERENCE: CPA/211385 - D03068894

MANAGER: Daryl Mann, Manager Water and Sewer

AUTHOR: Greg Cashin; Commercial Manager Water and Sewerage

SUMMARY

Evaluation and selection of tenders for CPA/211385 Expressions of Interest for Central Coast Pumps and Pipes Panel.

RECOMMENDATION

- 1 ***That Council select, Sinclair Knight Merz, Parsons Brinckerhoff Australia Pty Ltd and MWH Australia Pty Ltd, to form the Central Coast Pumps and Pipes Panel and for these companies to be invited to tender for Work Packages within the scope of the Panel for an initial period until 30 June 2015, with the potential of a two year extension subject to performance.***
- 2 ***That Council determines the Tender Evaluation Report in Attachment 1 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.***

BACKGROUND

Gosford and Wyong Councils are each undertaking sewage pumping station (SPS) improvement programs. The Councils propose to separately deliver their SPS program using a conventional contract delivery approach, i.e. design contracts followed by separate construction contracts. The Councils are each proposing to package projects based on geographical or work type characteristics.

To obtain efficiencies in design procurement and enhance incorporation of lessons learned into the program, a Pumps and Pipes Panel of design consultants is being established to service both Councils. Tenders for individual work packages will be invited from the panel. The establishment of the panel and the bundling of works will provide a number of advantages over the current project by project tendering approach including:

- economies of scale by aggregating individual projects into packages of work, reducing Council's procurement effort and costs;
- Additional time and resourcing advantages as the panel will allow a simplified tender process to be used. Tender responses will be limited to price, methodology and personnel as all commercial and capability issues have been addressed in the EOI;
- consistency of outcome as the panel members come to know the Councils' processes and requirements; and

4.2 CPA/211385 - Expressions of Interest for Central Coast Pumps and Pipes Panel (contd)

- ready incorporation of lessons learned into future projects as a result of the consistency of designers.

Although the focus of the panel will be on SPS and rising mains, work relating to gravity sewers, water pumping stations and water pipelines may also be included in work packages. Work packages may include options analysis, concept design, detailed design and/or tender documentation. The panel arrangements incorporate ongoing performance assessment of the individual consultants, with a mechanism to replace a panel member for non-performance.

The projects to be undertaken by the panel will be of a significant nature. Minor reticulation works typically undertaken by local surveying and development consultants will not be included.

The panel will initially be created on behalf of the Councils but would ultimately become the Central Coast Water Corporation (CCWC) Pumps and Pipes Panel, subject to the actual timing of establishment of the CCWC as a Water Supply Authority and the performance of the panel program. Until the CCWC is established each Council will separately tender work to the panel.

The panel will have an initial end date of 30 June 2015, with provision to extend for a further two years at the discretion of the Councils/CCWC (as applicable).

The panel is compatible with Council's existing panel for project management. The ability to use the project management panel for the water and sewer design work was assessed, however the composition and skills of the project management panel are not aligned with the water and sewer design work. Similarly the Department of Local Government's LGP1208 panel was considered, however this panel does not contain the majority of companies that Council would ordinarily expect to tender for this work.

REQUEST FOR EXPRESSIONS OF INTEREST

The Request of Expression of Interest (EOI) was released on 7 May 2012. The Request for EOI was advertised on eTender as well as in the Sydney Morning Herald and Central Coast Express Advocate.

EOI closed on eTender at 2.00pm on 7 June 2012.

EOI SUBMISSIONS

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

ADW Johnson
AECOM Australia Pty Ltd
Arup Pty Ltd
Aurecon
Brown Consulting
Cardno Pty Ltd
GHD Pty Ltd
H&H Consulting Engineers Pty Ltd
Haripur Pty Ltd

4.2 CPA/211385 - Expressions of Interest for Central Coast Pumps and Pipes Panel (contd)

Hunter Water Australia
MWH Australia Pty Ltd
NSW Public Works
Opus International Consultants
Parsons Brinckerhoff Australia Pty Ltd
RGH Consulting Group Pty Ltd
Sinclair Knight Merz
SMEC Australia Pty Ltd
URS
Worley Parsons

No late submissions were received.

EOI EVALUATION

No conflict of interest were declared by the members of the Evaluation Panel.

The relative ranking of Applicants 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 Compliance with EOI documents.
- 2 Material acceptance of proposed contract conditions and panel commercial arrangements.

Weighted Criteria:

- | | | |
|---|------------------------|-----|
| 1 | Proposed personnel | 30% |
| 2 | Company experience | 30% |
| 3 | Management systems | 20% |
| 4 | Corporate arrangements | 20% |

FINANCIAL IMPLICATIONS

All work undertaken through the Panel will be competitively tendered. Selection of the Panel does not bind Council to a specific amount of work to be tendered.

All projects put to the panel will be subject to individual business cases, PAT review and formal tender assessment processes.

4.2 CPA/211385 - Expressions of Interest for Central Coast Pumps and Pipes Panel (contd)

RELEVANT LEGISLATION

The EOI process 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 Applicants 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 Applicants has been used in assessing any request for confidentiality by an Applicant.

PUBLIC CONSULTATION

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

ATTACHMENTS

- | | | |
|---|---|-----------|
| 1 | CPA 211385 Confidential EOI Evaluation Report (CONFIDENTIAL Enclosure distributed under separate cover) - | D03068723 |
|---|---|-----------|

5.1 Friendship Committee of Southland District Council

TRIM REFERENCE: F2004/07107 - D02996164

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Monica Redmond; Councillor Services Officer

SUMMARY

Submitted for consideration of a proposal from the Friendship Committee of Southland District Council regarding the establishment of an Anzac link with WSC which would be based on education and cultural exchange activities.

RECOMMENDATION

- 1 That Council note the request from the Friendship Committee of Southland District Council for a proposal to run an Anzac/cultural exchange link.**
- 2 That Council forward the proposal to the local Returned and Services League of Australia (RSL) and local primary schools for their interest.**
- 3 That Council determine any assistance that may be given to interested local RSL's and local primary schools if requested by those organisations.**

BACKGROUND

Councillor Webster has advised that she has been approached by the Southland District Council (NZ) regarding a proposal put forward by their Friendship Committee to form an Anzac link, based on an education and cultural exchange between New Zealand and Australia.

It was suggested by the Friendship Committee that this proposal would provide:

- *"...an opportunity for Sister Cities to establish a new Anzac link based on an education and cultural exchange that celebrates our similarities, our shared history, our future potential."*

It was further suggested that a Sister City Sponsorship could incorporate the following ideas:

- *"An annual SC Anzac Essay competition for young people sponsored by Sister Cities or,*
- *an Anzac cultural exchange: A youth/adult choir exchange.*
- *A Band exchange for musicians to play at dawn parades on both sides of the Tasman.*
- *Groups/individuals could submit their applications to the board of SC for selection each year."*

CURRENT STATUS

Council at its meeting of 12 August 2009 considered Item 10.6 Notice of Motion – Japanese Sister City and unanimously adopted the following resolution:

- “1 That Council thank the Mayors of Tanabe and Southland and their communities for their support of our Sister City Program.*
- 2 That as Council now believes such programs funded by the ratepayer purse are not being recognised by the broader community as core to Council’s service provision in particularly difficult economic times, Council now officially withdraw its support of the Sister City Programs.*
- 3 That as this initiative has cost our ratepayers hundreds of thousands of dollars over the life of the program it is envisaged that in the event any future partnerships are established they must demonstrate a tangible benefit to our ratepayers in economic and employment terms.”*

As a result of the adoption of the above resolution Council’s Sister City program has been suspended.

THE PROPOSAL

It is proposed to refer the request to Local RSL’s and local primary schools to consider establishing a link with the Southland District Friendship Committee to commemorate ANZAC day via educational and cultural programmes.

While WSC does not have any programs in its Annual Plan that would support this request, WSC will assist any interested RSL’s by fostering the link and providing appropriate support (for example library resources for display).

OPTIONS

There are two options:

- 1 Agree to facilitate the proposal through the re-establishment of a Sister City Program, requiring:
 - the resolution adopted by Council on 12 August 2012 to be rescinded
 - budget allocation to be made to cover the expense of running the program.
- 2 Refer the proposal to local RSL sub-branches for their consideration, offering advisory assistance from WSC library service.

STRATEGIC LINKS**Wyong Shire Council Strategic/ Annual Plan**

Nil impact.

Contribution of Proposal to the Principal Activity

Nil impact.

Long term Financial Strategy

Nil impact.

Asset Management Strategy

Nil impact.

Workforce Management Strategy

Nil impact.

Link to Community Strategic Plan (2030)

A community objective of the plan is that communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood and the community will be well educated, innovative and creative.

This proposal is an opportunity for WSC to act as a connector between community groups and organisations.

Budget Impact

Nil impact.

CONSULTATION

Subject to approval of the proposed resolution in this report, WSC will refer this matter to the local Returned and Services League of Australia (RSL) for their consideration and advise them of any assistance that could be provided to them through our Library Service.

GOVERNANCE AND POLICY IMPLICATIONS

Nil impact.

MATERIAL RISKS AND ISSUES

Nil impact.

CONCLUSION

WSC has been approached by the Southland District Friendship Committee to consider supporting a cultural and educational program for ANZAC day.

WSC community and cultural objectives are aimed providing links between community groups to build community connectedness. WSC is encouraging groups to build self capacity by providing pathways for connections. This program offers local schools and RSL clubs the opportunity to establish cultural and educational links with a NZ community via the legacy of the ANZAC spirit.

It is recommended that WSC fosters the connection by forwarding the proposal to appropriate community groups.

ATTACHMENTS

Nil.

5.2 Payment of Industrial Special Risk Insurance Policy

TRIM REFERENCE: F2012/00538 - D03071216

MANAGER: Marie Hanson-Kentwell, Manager Human Resources

AUTHORS: Michelle McKenzie; Insurance Claims Administration Officer
David Secomb; Insurance Controller

SUMMARY

Approval is required to renew WSC's Property (Industrial Special Risk) insurance with Statewide Property Mutual.

RECOMMENDATION

- 1 That WSC approve the renewal of WSC's Property insurance policy with Statewide Mutual for the period 30 June 2012 to 30 June 2013.**
- 2 That WSC approve the premium payment of \$612,512.24 ex GST.**

BACKGROUND

Wyong Shire Council's broker, Jardine Lloyd Thompson (JLT), has arranged renewal of WSC's Property insurance with NSW Local Government (JLT) Mutual Liability Scheme known as Statewide Mutual, for the period 30 June 2012 to 30 June 2013.

WSC is a member of the Statewide Mutual program providing access to policies such as Property, Public Liability/Professional Indemnity, Council & Officers Liability and Fidelity Guarantee at very competitive prices and coverage, through Statewide Mutual.

Statewide Mutual is a fund made up of the majority of New South Wales' Councils. The contributions made by Councils by way of total premiums, provide significant buying power and enable Statewide to provide these classes of cover at the high limits Councils require.

The ceiling limits for both Property and Public/Professional Indemnity insurance are currently unobtainable in the Australian insurance market. In order for JLT to seek alternative terms for these risks an approach to Lloyds of London insurance market would be required and such an exercise would be costly and time consuming.

WSC has been a contributor to this scheme for many years. To withdraw, WSC is required to give at least three months written notice prior to the end of the financial year.

CURRENT STATUS

WSC's Industrial Special Risk insurance for the period 30 June 2011 to 30 June 2012 is with Statewide Mutual