



Council's harvester removes wrack from Long Jetty, Tuggerah Lake. Much of the wrack is to be used in saltmarsh and dune restoration programs across the Shire. More than 4,000 cubic metres of wrack has been removed in the past 12 months from the Tuggerah Lakes.

Business Paper

ORDINARY COUNCIL MEETING

09 May 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 9 MAY 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 Disclosures of Interest

TRIM REFERENCE: F2012/00026 - D02979208

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 - D02979213

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

SUMMARY

There were no proposed inspections for June 2012 at the time of printing this business paper.

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

Date	Briefing/ Description	Time	Presented by
9 May 2012	Parking Sensors at The Entrance	TBA	Director of Environment & Planning and Chief Ranger
9 May 2012	Fishermans Wharf	TBA	General Counsel and Director of Environment & Planning
9 May 2012	Tiles at The Entrance	TBA	Manager Place Management and Asset Planner Place Management
9 May 2012	Greenhouse Mitigation Plan/Green Energy Funds Projects - May 2011	TBA	Electrical Services Engineer

RECOMMENDATION

That Council receive the report on Proposed Inspections and Briefings.

ATTACHMENTS

- 1 Proposed Schedule of Briefings for 2012 - 9 May 2012 D02990573

Proposed Quarter	PROPOSED DATE	Briefing Title	Director
2nd qtr	9 May 2012	Parking Sensors at The Entrance	Environment and Planning Services
2nd qtr	9 May 2012	Fishermans Wharf	Environment and Planning Services
2nd qtr	9 May 2012	Tiles at The Entrance	Environment and Planning Services
2nd qtr	9th May	Greenhouse Mitigation Plan/Green Energy Funds Projects - May 2011	Infrastructure Management
2nd qtr	May	Wyong Major Infrastructure Study - April 2012 Update - Joint Aviation Capacity Study	Infrastructure Management
2nd qtr	23 May 2012	Section 62 Consultation Feedback	Environment and Planning Services
2nd qtr	23 May 2012	Strategy for Managing S94 Credits	Environment and Planning Services
2nd qtr	23rd May	Section 94 model including credits (same day as strategy for managing s94 credits)	Environment and Planning Services
2nd qtr	23rd may	Norah Head Boat ramp Part 1	Community & Recreation Services
2nd qtr	May	Porters Creek Floodplain Risk Management Plan	Infrastructure Management
2nd qtr	May	Greening Wyong Strategy	Community & Recreation Services
2nd qtr	May	Strategic plan fees - Final Draft	corporate services
2nd qtr	23rd May	GM's performance Review	Corporate Services
2nd qtr	23rd May	Strategic/annual plan	Corporate Services
2nd qtr	13th June	The Entrance Sea Wall	Community & Recreation Services
2nd qtr	May/June	Precincts	Community & Recreation Services
3rd qtr	July	Precinct 7A Masterplan - Feedback following exhibition	Environment and Planning Services
2nd qtr	June	Customer Service Charter	Community & Recreation Services
2nd qtr	June	Tuggerah Lakes Floodplain Risk management Study and Plan	Infrastructure Management
2nd qtr	13 June 2012	13 June, 2012 -- 1 hour briefing on submissions to the draft to the WSC SP	Corporate Services

Proposed Quarter	PROPOSED DATE	Briefing Title	Director
2nd qtr	June	Iconic Site No 5 – Lakeside Plaza	Environment and Planning Services
2nd qtr	June	Tuggerah Town Centre Masterplan	Environment and Planning Services
2nd qtr	13 June 2012	Industrial Land and employment Lands study	Environment and Planning Services
2nd qtr		Provide update of plans and financial viability of The Art House and Cultural Development	Community & Recreation Services
2nd qtr		Comprehensive LEP after exhibition	Environment and Planning Services
2nd qtr		Draft Shire-Wide Contributions Plan	Environment and Planning Services
2nd Qtr		Carbon Management	Environment and Planning Services
2nd Qtr		Natural Resources Strategy	Environment and Planning Services
2nd Qtr		Iconic Development Site No 11 - Council Carpark, Coles, Senior Citizens & Toukley Town Centre	Environment and Planning Services
2nd Qtr		Iconic Development Site No 16 - 216-222 Main Road & Rowland Terrace, Toukley	Environment and Planning Services
2nd Qtr		Iconic Development Site No 13 - Former Shell Service Station, Council carpark & adjoining sites, Main Road, Yaralla Street and Beachcomber Parade, Toukley	Environment and Planning Services
2nd Qtr		Bushfire Works Plan	Environment and Planning Services
		Sea Level Rise Notification & 149 Certificate	General Counsel/Environment and Planning Services
		Central Coast Taxis	Infrastructure Management
3rd qtr	August	Progress on the Community Strategic Plan (SSV)	Corporate Services
3rd qtr	8th aug	Plan of management central coast caravan parks	Community & Recreation Services
3rd qtr	oct	RZ/7/2009 Chittaway Point Rezoning	Environment and Planning Services
3rd qtr		Biodiversity Management Plan	Environment and Planning Services
3rd qtr		Iconic development site No 14 - beach parade Canton Beach	Environment and Planning Services
4th qtr	New Councillors	Urban Design Principles & Concepts	Environment and Planning Services
4th qtr	New Councillors	Urban Design Principles & Concepts	Environment and Planning Services

Proposed Quarter	PROPOSED DATE	Briefing Title	Director
4th qtr	October	Norah Head Boat ramp Part 2	Community & Recreation Services
4th qtr	October	Full introduction CCWC for the new Council	Corporate Services/
4th qtr		Wyong Employment Zone - results of DCP and S94 Contributions Plan/Biocertification update, DCP amendment update	Environment and Planning Services
4th qtr		Committee structure	Corporate Services

1.3 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2012/00026 - D02979245

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 26 April 2012.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 26 April 2012.

ATTACHMENTS

- | | | |
|---|---|-----------|
| 1 | MINUTES - Ordinary Council Meeting - 26 April 2012 | D02985483 |
| 2 | MINUTES - Confidential Session - 26 April 2012 (D02985486 - distributed under separate cover) | |

WYONG SHIRE COUNCIL

**MINUTES OF THE
ORDINARY COUNCIL MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 26 April 2012
COMMENCING AT 5:00 PM**

PRESENT

Councillors R L Graham (Chairperson), G P Best (arrived at 5.08 pm), D J Eaton, L A Matthews, E M McBride (arrived at 5.46 pm), 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, Land Use Planning Policy Development Manager 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.

Mayor Graham advised that he was honored to attend Bob Butt's funeral last week. Bob Butt was a long serving Wyong Shire Council employee of 40 years, starting as a Health and Building Surveyor and eventually working his way up to becoming the Director of the Health, Building and Planning Department. Heartfelt sympathies go out to Bob's wife Elaine, his four children and his grandchildren on his sad passing.

Mayor Graham advised that he and Councillor Webster attended the ANZAC Day dawn service at The Entrance yesterday, Councillor Symington represented Council at the Gwandalan service, Councillor Vincent at Doyalson, Councillor Eaton at Wyong and Councillor Best at Toukley. Mayor Graham thanked the Councillors for their dedication and commitment to Australia within the Wyong Shire.

Mayor Graham delivered The Ode and a moment of silence was given in honor our ANZACs.

Councillor Matthews presented Council an acknowledgement of generous support certificate received from The Rotary Club of Northlakes Toukley.

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, 2.1, 8.2, 8.3, 2.2, 2.3, 3.1, 5.2, 5.5, 6.2, 6.5, 8.1 and 9.1, were dealt with first then the remaining reports in order. However for the sake of clarity the reports are recorded in their correct agenda sequence.

1.1 Disclosures of Interest

2.1 DA 308/2011 – Residential Flat Development under SEPP (Affordable Rental Housing) 2009 at 35-41 Wilfred Barrett Drive, The Entrance North

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he is a member for the JRPP that will determine the application, left the chamber at 5.16 pm, took no part in discussion, did not vote and returned to the chamber at 5.53 pm

2.1 DA 308/2011 – Residential Flat Development under SEPP (Affordable Rental Housing) 2009 at 35-41 Wilfred Barrett Drive, The Entrance North

Councillor Symington declared a pecuniary interest in the matter for the reason that he is a member for the JRPP that will make final determination in this matter, left the chamber at 5.16 pm, took no part in discussion, did not vote and returned to the chamber at 5.53 pm

5.3 Councillors' Community Improvement Grants

Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that he is a member of the Budgewoi Scout Group and participated in consideration of this matter.

Councillor Vincent stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I am not a member of the Ourimbah Scout Group."

8.3 Notice of Motion – Tuggerah Lakes Unsustainable Fishery

Councillor Wynn declared a pecuniary interest in the matter for the reason that her husband (Kelvin) and both sons (Benjamin and Jarrod) are commercial fishers, holding commercial fishing licences in zone 4, left the chamber at 6.32 pm, took no part in discussion, did not vote and returned to the chamber at 7.23 pm.

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

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

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

AGAINST: NIL

PROCEDURAL MOTION

SUSPENSION OF MEETING PRACTICE

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

- 1 That Council allow meeting practice to be varied.**
- 2 That Council use the exception method to deal with the balance of the Agenda.**

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

AGAINST: NIL

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

That with the exception of report numbers 2.1, 2.2, 2.3, 3.1, 5.2, 5.5, 6.2, 6.5, 8.1, 8.2, 8.3 and 9.1 and Council adopt the recommendations contained in the remaining reports.

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

AGAINST: NIL

PROCEDURAL MOTION

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

That Council withdraw item 4.1 - Evaluation and selection of tenders for Contract CPA/185863 - Design, Documentation and Construction of the Bateau Bay Sewage Treatment Plant Inlet Works Augmentation, to be considered at a future meeting.

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

AGAINST: NIL

1.2 Proposed Inspections and Briefings

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

That Council receive the report on Proposed Inspections and Briefings.

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

AGAINST: NIL

1.3 Confirmation of Minutes of Previous Meeting

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

- 1 That Council confirm the minutes of the previous Ordinary Meeting of Council held on 28 March 2012 and Extraordinary Meeting of Council held on 11 April 2012.**
- 2 That Council adopt the corrected resolutions for items 4.6 – Proposed Road Renaming – Woodland Parkway, Buff Point and 4.7 – Proposed Road Renaming – Kitchener Road, Long Jetty from page 13 of the Minutes of the Ordinary Meeting of Council held on 14 March 2012.**

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

AGAINST: NIL

Business Arising

There was no business arising.

1.4 Address by Invited Speakers

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

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

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

AGAINST: NIL

1.5 Notice of Intention to Deal with Matters in Confidential Session

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

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

9.1 - Central Coast Water Corporation Cost Benefit Analysis

9.2 - Re-appointment of General Manager as Director of Central Coast Water Corporation

9.3 - Sale of Land at 31 Palmdale Road, Palmdale

- 2 ***That Council note the reason for considering items 9.1 and 9.2 in confidential session is the reports require commercial discussion and agreement with another party (Gosford City Council) before they can be presented for Wyong Shire Council's endorsement.***
- 3 ***That Council note the reason for considering item 9.3 in confidential session is that it would confer a commercial advantage on a competitor of the Council.***
- 4 ***That Council request the General Manager to report on this matter in open session of Council.***

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

AGAINST: NIL

2.1 DA 308/2011 - Residential Flat Development under SEPP (Affordable Rental Housing) 2009 at 35-41 Wilfred Barrett Drive, The Entrance North

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he is a member for the JRPP that will determine the application, left the chamber at 5.16 pm, took no part in discussion, did not vote and returned to the chamber at 5.53 pm

Councillor Symington declared a pecuniary interest in the matter for the reason that he is a member for the JRPP that will make final determination in this matter, left the chamber at 5.16 pm, took no part in discussion, did not vote and returned to the chamber at 5.53 pm

Councillor McBride entered the meeting at 5.46 pm during consideration of this item.

Ms Anne Rowland, representative of The Entrance Peninsula Community Precinct Committee, speaking against the recommendation, addressed the meeting at 5.17 pm, answered questions and retired at 5.28 pm.

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

- 1 ***That Council receive the report on DA 308/2011 - Residential Flat Development under SEPP (Affordable Rental Housing) 2009 at 35-41 Wilfred Barrett Drive, The Entrance North.***
- 2 ***That Council make a submission to the JRPP opposing the application on the basis of;***
 - a ***not fitting the local character***
 - b ***some units being too small and not suitable for permanent accommodation***
 - c ***social issues***
 - d ***inadequate public transport***
 - e ***not consistent with surrounding development and the surrounding 2(a) zoning***
 - f ***densification which is contrary to the Coastal Hazard Management Plan***

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

PROCEDURAL MOTION

SUSPENSION OF MEETING PRACTICE

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

- 1 That Council allow meeting practice to be varied.**
- 2 That Council consider items 8.2 - Notice of Motion - Jilliby Stage 2, and 8.3 - Notice of Motion - Tuggerah Lakes Unsustainable Fishery, following item 2.1 - DA 308/2011 - Residential Flat Development under SEPP (Affordable Rental Housing) 2009 at 35-41 Wilfred Barrett Drive, The Entrance North, as there are speakers in attendance for these items.**

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

2.2 DA/200/2011 - Residential Flat Building Comprising Three (3) Townhouses and Separate Dwelling-House at The Entrance North

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

- 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 vary Wyong Development Control Plan 2005 Chapter 64 – Multiple Dwelling Residential Development in relation to height, setbacks, car parking, floor space ratio and open space to permit the development.**
- 3 That Council confirm the future intention to acquire land 5 metres wide to facilitate the construction of a foreshore promenade as identified in The Entrance Peninsula Planning Strategy.**

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

2.3 RZ 15/2009 - Rezoning 76 Berkeley Road, Fountaindale

Councillor Best left the meeting at 7.25 pm and returned to the meeting at 7.26 pm during consideration of this item.

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

- 1 That Council initiate the Local Environmental Plan "Gateway" process, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by preparation of a Planning Proposal.**
- 2 That Council forward the Planning Proposal to the Department of Planning and Infrastructure requesting a "Gateway" determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.**
- 3 That Council undertake community consultation regarding the Planning Proposal, subject to the determination of the Gateway Process.**
- 4 That Council direct the General Manager to submit a report to Council on results of the community consultation.**

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

AGAINST: NIL

3.1 Classification of Land - Lot 232 DP 1162569 at Johns Road, Wadalba

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

- 1 That Council classify Lot 232 DP 1162569 as Operational land.**
- 2 That Council advertise the proposal in accordance with Section 34 of the Local Government Act 1993.**
- 3 That Council adopt the classification.**
- 4 That Council consider a further report at the next meeting of Council regarding the reasons why this land should be categorised as operational land and not community land.**

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

AGAINST: NIL

4.1 Evaluation and selection of tenders for Contract CPA/185863 - Design, Documentation and Construction of the Bateau Bay Sewage Treatment Plant Inlet Works Augmentation

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

That Council withdraw item 4.1 - Evaluation and selection of tenders for Contract CPA/185863 - Design, Documentation and Construction of the Bateau Bay Sewage Treatment Plant Inlet Works Augmentation, to be considered at a future meeting.

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

AGAINST: NIL

4.2 Contract CPA/182056- Construction of Proposed C16 and Associated Works

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

- 1 That, Council accept the tender from the company nominated as Tender "6" in the Tender Evaluation Report in Attachment A, for the lump sum amount of \$1,455,680 (excl GST) for Contract CPA/182056 – Construction of Proposed SPS C16 and Associated Works.**
- 2 That, The Tender Evaluation Report - Attachment A to the subject report, remain confidential in accordance with Section 10A(2)(d) of the Local Government Act 1993.**
- 3 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.**

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

AGAINST: NIL

5.1 Draft Minutes - Wyong Shire Grants Committee - 22 March 2012

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

- 1 That Council receive the draft minutes of the Wyong Shire Grants Committee Meeting held on 22 March 2012**
- 2 That Council allocate \$63,204.00 from the 2011-12 Community Benefit Grant program as follows:**

Organisation	Project	Amount
Wyongah Association	Progress Funding for up to 50% of the current rates	\$1,750.00
Halekulani Library	Purchase books	\$500.00
Pioneer Dog Training School Inc	Purchase a storage and equipment trailer	\$2,950.00
Central Coast Pink Butterflies Inc	Provide care packages to women undergoing treatment for breast cancer on the Central Coast, event on 13 May 2012 at Saltwater Creek Reserve, Long Jetty	\$3,500.00
Latinos and Friends	A day for 10 Men in the Wyong Shire to meet and share a day in The Shed – part funding	\$300.00
Ocean and Coastal Care Initiatives Inc	'Whale Dreamers Festival' to assist with the facilities, safe transport and information to ensure the general public are well informed of the event and it's activities and also to provide OH&S required transport and toilets	\$3,000.00
Central Coast CALD Domestic Violence Sub-Committee	Catering costs for the launch of the CALD DV Sub-Committee's poster project	\$500.00
Manning Park Land Care & Tidy Towns Incorporated	The supply and use of plant and equipment for the operation of the Manning Park Tidy Towns Field Work activities to be used over the next 3 years	\$5,223.00
Gwandalan and Summerland Point Community Garden Inc	Construction of Gwandalan and Summerland Point Community Garden Inc	\$13,920.00
Camp Breakaway Inc	A series of 4 educational and training workshops for people with disabilities utilising the latest assistive technology - ipads. These workshops will educate and train participants in iPads, showing them how digital freedom can enhance their lives – part funding	\$9,430.00

Wyong District Cricket Club	Centenary of Wyong Cricket	\$10,499.00
Coast Shelter	One day expo showcasing service providers who offer support to homeless or at risk of, or doing it tough	\$9,400.00
Youth Connections	Launch the Freedom Ride documentary at Tuggerah Greater Union Cinema – part funding	\$2,232.00

- 3 That Council decline the following Community Benefit Grant applications for the reasons as indicated in the table below and the applicants advised and where relevant, directed to alternate funding programs:

Organisation	Project	Amount	Reason
Manning Park Community Hall	Install solar panels on Community Hall to reduce electricity account	\$3,140.00	Ineligible - 2.5, 2.6 (Capital Funds) Not an incorporated body
Bateau Bay PCYC	A 6 week program called 'NYTE HOOPZ' that combines sport (basketball) and other fun/educational activities for vulnerable and disadvantaged young people (12 - 18 years old)	\$12,000.00	Not recommended - Many aspects of the budget are ineligible for funding Concept better funded through other sources
Road Safety Education Ltd	Assist with the costs incurred to conduct a Road Safety Education program for approx. 2000 year 11 students on the Central Coast	\$6,000.00	Ineligible - Public Company Currently funded through Road Safety Programs in C&CD Unit
Long Jetty District Senior Citizens Club	Replace signs and repaint Thompson St, side of building. Remove rusted blinds and paint wall eastern side of building. Tint windows both sides of office and computer room supply and install new cabinets, open shelves, new tiles above sink eastern side of main lounge	\$1,729.00	Ineligible - Capital Building maintenance 2.6 Council facility Have \$12,000 in building maintenance account
Wyong Stroke Support Club	Enable Wyong Shire stroke victims to take part in a stroke event in Forster	\$7,000.00	Ineligible - should apply through CDSE 2.9 is funds to stage or fees to attend seminar, conference, congress

Berkeley Vale Rugby League and Sports Club Inc	Provide updated and sufficient floodlighting at competition standard for Rugby League and Touch Football games	\$10,000.00	Ineligible - 2.6 Capital funds Seek other funding sources
Youth Connections	Contribute to the Cultural and Creative Industry Festival held November 2012, including outdoor staging hire, semi trailer stage, delivery, setup, crash barriers and daytime lighting	\$10,000.00	Not recommended - Project not defined, applicant to re-apply in next round when project scope is clear
Gorokan and The Entrance Village Hub Project - The Benevolent Society	6 Community BBQ's to engage residents in a disadvantaged area from 1 May 2012 to Jan 2013	\$4,700.00	Requirement of State of Federal Government funding

- 4 That Council inform the declined Community Benefit Grant applicants who are eligible for ClubGRANT prior to the closing date for applications.
- 5 That Council allocate \$236,241.00 from the 2011-12 Community Matching Fund Grant program as follows:

Organisation	Category	Project	Conditions	Amount
Toukley & District Senior Citizens Club Inc.	Infrastructure	Replace Roof Tiles - To replace the deteriorating cement tiles on the roof of Toukley Senior Citizens Centre auditorium with color bond metal roofing.	Nil	\$44,000
Wyang Drama Group Inc.	Arts	To enhance the functional capabilities of Wyong Memorial Hall to facilitate increased community use and provide creative arts opportunities for disadvantaged children and to allow youth training in all aspects of Performing Arts	Should be linked to creative enterprise model	\$23,142
Mingara Athletic Club	Celebration	Purchase and implementation of electronic timing equipment for use in running club meets and major events	Sponsorship to be acknowledged via appropriate signage	\$18,250

Tuggerah Lakes Reserve Trust	Environment	Central Coast Wetlands Community Garden Facility and Site Security	<ul style="list-style-type: none"> ▪ Review linkages with EMP ▪ WSC ability to host community education sessions at the site ▪ Council to document as a pilot program and use for promotional purposes 	\$47,173	
St Vincent de Paul	Capacity Building	To fund commencement of No Interest Loans Scheme (NILS) for loans to underprivileged to purchase essential household goods	Explore links with Council's proposed Hardship Panel	\$15,000	
ADSSI Limited	Community Safety	ADSSI ECO & Access Garden Project	<ul style="list-style-type: none"> ▪ 30 gardens or more ▪ More partnerships ▪ Council to participate in steering committee and determination of sites ▪ Program documentation to be available for community use 	\$44,176	
Regional Youth Support Services	Youth	Youth Social Wyong Project	Consultants Enterprise Engagement	<ul style="list-style-type: none"> ▪ Program linked to Council's Youth Engagement Strategy ▪ Council's Youth Officer to be involved in Youth Steering Group 	\$24,500
Warnervale Rugby Union/Cricket Club Inc	Accessibility	Extend the awning for the full length of the amenities block at Woongarra	Nil	\$20,000	

6 That Council decline the following Community Matching Fund Grant applications for the reasons as indicated in the table below and advise the applicants, where relevant, of any alternate funding programs:

Organisation	Project	Amount	Reason
The Entrance District Tennis Club	Renewal of Enclosure wiring for 4 Courts	\$20,000	Not recommended - Inadequate application Match and community support not defined
Doyalson - Wye RSL Youth Club	A youth club complex to facilitate the needs of all the youth groups under the banner of our Youth club	\$20,000	Not recommended - Inadequate application Match and community support not defined
The Entrance Public School Parent and Citizens Association (P&C)	Shelter	\$32,279	Not recommended - Good application, short listed Community benefit was deemed as limited compared to other short listed applications. No contribution from Dept Education
CC Community Council Inc	ARKvan	\$36,045	Not recommended - Inadequate application Whilst concept was identified as beneficial application lacked substance
Wyong Neighbourhood Centre Inc & The Iris Foundation	Wyong Neighbourhood Centre Early Intervention & Crisis Support Project	\$27,800	Not recommended - Project not clearly defined
Men's Sheds Central Coast Inc	Shed speak - a series of informal information sessions at the local Men's Shed facility.	-	Not recommended - Project not clearly defined
SUP Central Inc.	Stand Up - Stand Up Paddle events	\$19,950	Ineligible - Late application
The Scout Association of Australia NSW Branch: 1st Gwandalan Scout Group	1st Gwandalan Scout Hall - Stage 2	\$34,600	Not recommended - Community match was largely retrospective.
Gorokan Pre School	Expand upon our Non profit Community based pre-school building to provide storage for general and specialised equipment	\$57,035	Not recommended - Community benefit was negligible. Only available to school members.
Regional Youth Support Services Inc	Youth Arts and Culture Enterprise	\$21,200	Not recommended - duplicates existing services, no evidence of liason with other service providers or stakeholders in Project Planning

Northern Lakes Rugby League Sport and Recreation Club	Complete Clubhouse	\$75,000	Not recommended - Completion of an existing Project
Doylo Senior Touch, Junior Touch, Soccer Club & Cricket Club	7 new light structures.	\$75,000	Not recommended - Volunteer and financial match not clear. Poor application. Potential to be funded elsewhere
The Entrance Surf Club	Deck	\$25,000	Ineligible – Late Application
WOWGirls Wave Of Wisdom Inc	Womens Community Network	\$62,610	Application for website that is currently supplied by in-kind

7 That Council include information to assist applicants to better understand the intent of each category and how to align their proposals to the categories, as part of future Grant information sessions.

8 That Council allocate \$18,470.00 from the 2011-12 Cultural Development Grant program as follows:

Organisation	Project	Amount
Regional Youth Support Services	Indigenous art painting project	\$6,000
CC Community Radio Ass Inc (COAST FM)	Expansion of program to one segment per week in Wyong LGA	\$3,660
Wyong Neighbourhood Centre – Nth Wyong Youth Arts Service	Skills and Professional Development Initiative supporting professional development of emerging musicians	\$5,175
Northlakes Toukley Rotary Club on behalf of Sculpture on the Greens (Central Coast Festival of the Arts)	Create a high quality sculpture exhibition in promotion of the arts.	\$3,635

9 That Council allocate \$4,550 from the 2011-12 Cultural Development Grant program to China Australia Friendship Association for their 1 Day China Cultural Festival at The Entrance in June 2012.

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

AGAINST: NIL

5.2 Rural Fire Service Budget Submission 2012/13

Councillor Symington left the meeting at 7.40 pm and returned to the meeting at 7.43 pm and as a result took no part in voting on this item.

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

- 1 That Council endorse the proposed Wyong Rural Fire Service's (RRS) proposed budget Bid.**
- 2 That Council confirms continuance of financial support of the Wyong Rural Fire Service in accordance with s.111 of the Rural Fires Act 1997.**

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

AGAINST: NIL

5.3 Proposed Councillors' Community Improvement Grants

Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that he is a member of the Budgewoi Scout Group and participated in consideration of this matter.

Councillor Vincent stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I am not a member of the Ourimbah Scout Group."

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

That Council allocate an amount of \$9,777.90 from the 2011-12 Councillors' Community Improvement Grants as follows:

Proposed Allocations for 26 April 2012		
1st Ourimbah Scout Group (\$1200) (\$600 already allocated)	To purchase PFD life jackets for youth members	300.00
Budgewoi Beach Dune Care Inc (\$500)	To replace 2 wheels for box trailer owned by Budgewoi Beach Dune Care Inc	500.00
Camp Breakaway (\$5225)	To purchase a bed-bath trolley for people with disabilities.	1,300.00
Central Coast CC Australian Italian Friendship Society Inc. (\$2000) (\$1350 already allocated)	Provide assistance of Italian origin who may need it due to unfortunate health and/or financial issues to facilitate recreational and social activities for the lonely and infirm to help them integrate into the general community.	250.00
Central Coast Local Health District (CCLHD) - Wyong Hospital (\$1200)	To support the dam hotel in their fundraiser for Wyong Hospital.	500.00
Central Coast Watercolour Society Inc. (\$1250)	To provide artist quality materials for one weekend workshop at The Entrance CC for residents of the Wyong Shire.	300.00
Chain Valley Bay Progress Association (\$229.90)	In-kind to pay deposit for key	229.90
EDSACC Croquet Club Inc (\$2000)	To remove several trees whose roots have invaded and are threatening the lawns.	1,550.00
Inner Wheel Club of Wyong Inc. (\$500)	Purchase of a portable public address system for use at fund raising events and printing of promotional brochures/flyers.	150.00
North Entrance Surf Life Saving Club (\$1000)	Honour Boards for Executives and Club Champions	1,000.00
Razorbacks Junior Rugby Club (Ourimbah) (\$1690.00)	Repairs due to flooding of Ourimbah Creek	100.00
Take 3 (\$1000) (\$250 already allocated)	Development of educational resources and visits to Wyong Shire schools for educational activities.	500.00
The Smith Family (\$1500)	Restoration of elevated garden structures and plants.	100.00
Toukley & Districts Art Society Inc. (\$2000) (\$900 already allocated)	Purchase of a laptop.	300.00
Tuggerah Lakes Reserve Pioneer Dairy Trust	To purchase a refrigerator for use by Trust volunteers & site visitors	2,100.00
Uniting Church Tuggerah Lakes South Parish "New Connections" (\$6000)	To continue the group's operations - cover food costs	100.00
Woongarrah Wildcats Football Club (\$2000)	To organise an Opening Day for the new Hamlyn Terrace Complex	300.00
Wyong Amateur Swimming Club - Emergency approved by GM (\$198)	Presentation night - emergency application approved by GM 22.3.12	198.00

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

AGAINST: NIL

5.4 Response to Recommendation - Planting Supply Contract - Estuary Management Plan

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

That Council endorse the intention to defer the initiation of a new tender process for provenance planting across Council, until such time as Council's needs are sufficient to justify a new tender process under Section 55 of the Local Government Act (1993).

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

AGAINST: NIL

5.5 Consideration of Proposed Level 1 Water Restrictions

Councillor Symington left the meeting at 7.40 pm and returned to the meeting at 7.43 pm during consideration of this item.

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

- 1 ***That Council notes the revised Water Restriction Guidelines.***
- 2 ***That Council adopts the Boards recommendations to ease water restrictions from Level 2 to level 1 on 30 April 2012.***
- 3 ***That Council adopts the Boards recommendation to ease the water restrictions from Level 1 to WaterWise rules when the storage level in Mangrove Creek Dam reaches 44%.***
- 4 ***That Council congratulate the community for their ongoing efforts to save water on the Central Coast.***
- 5 ***That Council requests that any resulting communication program ensures that the community is advised that although water restrictions have been relaxed, community support is still required in conserving our precious water supply.***

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

AGAINST: COUNCILLORS MCBRIDE AND WYNN

6.1 Information Reports

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

That Council receive the report on Information Reports.

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

AGAINST: NIL

6.2 Subsidised Tipping for Residential Ratepayers

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

- 1 *That Council receive the report on Subsidised Tipping for Residential Ratepayers.***
- 2 *That Council implement an education and awareness campaign to further promote Councils kerbside collection service.***
- 3 *That Council implement an education and awareness campaign through real estate agents to target rental properties and tenants to improve compliance, understanding and utilisation of the service.***

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

AGAINST: NIL

6.3 Works in Progress - Water Supply and Sewerage

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

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

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

AGAINST: NIL

6.4 General Works in Progress

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

That Council receive the report on General Works in Progress.

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

AGAINST: NIL

6.5 Mardi to Mangrove Link Project Status

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

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

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

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

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

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

AGAINST: NIL

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

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

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

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

AGAINST: NIL

6.8 Investment Report for March 2012

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

That Council receive the Investment Report for March 2012.

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

AGAINST: NIL

6.9 Outstanding Questions on Notice and Notices of Motion

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

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

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

AGAINST: NIL

8.1 Notice of Motion - Opportunities for Trade and Tourism in China

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

- 1 That Council investigate the opportunities for developing direct trading arrangements with specific official entities in China.**
- 2 That Council recommend the post 2012 elections incoming Council consider undertaking a study tour of China for the objective of developing trade.**
- 3 That Council initiate formal discussions with Pudong district government Shanghai with a view to entering into an alliance agreement focussing on tourism, trade and investment.**
- 4 That Council initiate discussions with Zhabei district, Shanghai, Dongying city and other interested Chinese cities to develop tourism cooperation agreements, subject to material progress occurring in respect of the Chinese Theme Park development in Wyong.**
- 5 That Council recommends the organizers of Tuggerah Lakes Mardi GRAS to invite Zhabei district to participate in the 2012 event.**
- 6 That Council consider an Investments and Promotions Committee when reviewing the Committee Structure late in 2012.**

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

AGAINST: COUNCILLORS MATTHEWS, MCBRIDE AND VINCENT

8.2 Notice of Motion - Jilliby Stage 2

Councillor Matthews left the meeting at 5.54 pm and returned to the meeting at 5.56 pm during consideration of this item.

Councillor Best left the meeting at 6.05 pm and returned to the meeting at 6.06 pm during consideration of this item.

Councillor Vincent left the meeting at 6.26 pm and returned to the meeting at 6.27 pm during consideration of this item.

Mr Paul Levick, speaking in favour of the recommendation, addressed the meeting at 5.54 pm, answered questions and retired at 6.04 pm.

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

- 1 That Council recognise the shortage in the Shire of the type of residential land proposed in the Jilliby Stage 2 rezoning proposal, the need to provide a variety of housing choice and the employment and economic benefits that purchasers of such housing types generally bring to the area.**
- 2 That Council includes the rezoning of the Jilliby Stage 2 lands to R5 large lot residential zoning as detailed in planning proposal RZ/2/2012, into the draft LEP to enable it to be exhibited for public comment.**

The MOTION was put to the vote and declared CARRIED on the casting vote of the Mayor.

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

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

8.3 Notice of Motion - Tuggerah Lakes Unsustainable Fishery

Councillor Wynn declared a pecuniary interest in the matter for the reason that her husband (Kelvin) and both sons (Benjamin and Jarrod) are commercial fishers, holding commercial fishing licences in zone 4, left the chamber at 6.32 pm, took no part in discussion, did not vote and returned to the chamber at 7.23 pm.

Councillor Vincent left the meeting at 6.54 pm and returned to the meeting at 6.57 pm during consideration of this item.

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

Mr Allan Reed, Professional Fisherman, speaking against the recommendation, addressed the meeting at 6.32 pm, answered questions and retired at 6.54 pm.

Mr Laurie Littlefield, Community Representative, speaking in favour of the recommendation, addressed the meeting at 6.54 pm, answered questions and retired at 7.02 pm.

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

- 1 That Council note with great concern that a large number of professional fishermen are legally able to access Tuggerah Lakes as a consequence of some two decades of licensing restructure, waterways closures and unsuccessful buy back programs.**
- 2 That Council seek confirmation from Department of Primary Industries – Fisheries NSW as to the exact number of licences that allow access to Tuggerah Lakes and what current initiatives are in place to guarantee the fishery and environmental sustainability of the Lakes.**
- 3 That Council note that angling nationally is a billion dollar per annum industry and a major employer of Central Coast residents.**
- 4 That Council seek guidance from Central Coast Tourism Inc. and the Professional Fishing Association (PFA) as to the potential tourism and local lifestyle benefits that would flow from more recreational sustainable fishery.**
- 5 Council notes that Australian Tourism groups have found there to be a high level of interest in watching Commercial Fishers ply their time honored traditional methods which involve no high tech aids and are based on the same methods used on Tuggerah Lakes for the last 150 years.**
- 6 That Council note there is a growing trend in Australians consumer behaviour to demand local fish and crustacean supplies from a trusted Australian controlled source to ensure quality and food safety. In fact, the mullet fishery was named only last week as one of the most sustainable fisheries and hence people should be eating this fish. Mullet is one of the major fish catches by Commercial Fishers in the Tuggerah Lake system and is not targeted by recreational anglers.**
- 7 That Council note that the Tuggerah Lakes are owned and controlled by the NSW state government.**
- 8 That Council lobby its local members to request a report from the Minister for Primary Industries with regard to the current sustainability of the fishery, around issues of licensing proliferation with access to Tuggerah Lakes also as to what further initiatives are available to better manage the environment such as but not limited to a voluntary buy back scheme or licence limiting over geographic boundaries .**
- 9 That Wyong Shire Council, through its Tuggerah Lakes Estuary and Coastal Management Committee and Tuggerah Lakes Estuary Plan is continually working to improve the water quality and habitat of the Tuggerah Lakes and its environs which will also enhance sustainability of this fishery.**

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

AGAINST: NIL

CONFIDENTIAL SESSION

At this stage of the meeting being 8.13 pm Council moved into Confidential Session with the members of the press and public excluded from the meeting of the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action is taken in accordance with Section 10a of The Local Government Act, 1993.

OPEN SESSION

Council resumed in open session at 8.24 pm and the General Manager reported on proceedings of the confidential session of the ordinary meeting of council as follows:

9.1 Central Coast Water Corporation Cost Benefit Analysis

- 1 That Council receive and note the PwC CBA report.**
- 2 That Council endorse the Option N - Integrated CCWC (Long term lease) + Joint Services Business as Wyong Shire Council's preferred operating model for the CCROC meeting of 31 May 2012.**
- 3 In the event that Option N is agreed to by Gosford City Council and Wyong Shire Council, then the Councils' endorse:**
 - a An Implementation Plan be developed in consultation with the Corporation Board for the preferred operating model and presented to the Councils at a meeting of the Central Coast Regional Organisation of Councils in June 2012.**
 - b That the Asset Management and Regulatory Services functions and associated staff from each Council transfer to the Central Coast Water Corporation from 1 July 2014.**
 - c The General Managers be delegated the power to transfer functions, people and assets to the Central Coast Water Corporation as required to test and trial management systems and processes prior to 1 July 2014 and up to 30 June 2017.**
 - d That all remaining water and sewer staff be transferred to the Central Coast Water Corporation as soon as practically possible, but no later than 1 July 2017.**
 - e That a Joint Services Business providing corporate services to the Councils and Central Coast Water Corporation be established and functional by 1 July 2017.**
 - f An Implementation Plan be developed for the Joint Services Business and be presented to the Councils at the December 2012 meeting of the Central Coast Regional Organisation of Councils.**
 - g That both Councils continue to work together to provide corporate services to the Corporation until the JSB is established.**

- h That any changes/amendments/definitions/inclusions to the Central Coast Water Corporation Act, MOU with the Minister of Water, Constitution, Shareholders Agreement, Funding and Services Agreement and Statement of Corporate Intent to support this business model be progressed with the relevant stakeholders and that these changes be presented to the Central Coast Regional organisation of Councils meeting of June 2012.*
- i That the Act be amended to allow Gosford City Council and Wyong Shire Council to appoint 2 Directors each to the Central Coast Water Corporation (CCWC) Board. This proposal would establish a Board of 7 Directors on the CCWC Board, made up of 4 Council appointed Directors and 3 independent Directors.*

4 Council note that the preferred business model ensures:

- a Job security for staff.*
- b Maintains ownership of the assets with the Central Coast Community.*
- c Provides a net benefit to the three entities (WSC, GCC & CCWC).*
- d Delivers a coordinated regional approach for the Central Coast Community for the essential services of water and wastewater.*

9.2 Re-appointment of General Manager as Wyong Shire Council's appointed Director of Central Coast Water Corporation

That Council submit a report for discussion with Gosford City Council at a meeting of the Central Coast Regional Organisation of Councils on the re-appointment of the General Manager, Mr Michael Whittaker as Director of the Central Coast Water Corporation until 30 September 2014.

9.3 Sale of Land at 31 Palmdale Road, Palmdale

- 1 That Council authorise the sale of Lot 1 DP 1012816, No 31 Palmdale Road Palmdale for the sale price of \$705,000.00*
- 2 That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the formal documents for Sale and Transfer of the land.*
- 3 That Council authorise the Mayor and the General Manager to execute all documents.*

QUESTIONS ON NOTICE

Q13/12 8 Bush Road, Norah Head
Councillor William Symington
F2004/07718

“Can staff please provide an urgent status report regarding the use of the property at 8 Bush Road Norah Head, which is allegedly operating as a 60 seat restaurant from premises that have only been approved for use as “Residential/General Store?”

Q14/12 Graffiti in Woodward Avenue, Wyong
Councillor Doug Eaton
F2004/07718

"I recently received a complaint as to graffiti on fences in Woodward Avenue Wyong. On inspection there is significant graffiti on fences surrounding the park. Can Council investigate hedge or other appropriate plantings to screen the fences around the park to prevent/deter graffiti?"

Q15/12 Progress on Iconic Sites
Councillor Doug Eaton
F2010/02196

"Can staff send out a business update (confidential if necessary) outlining progress on all of the iconic sites?"

Q16/12 Audit Tender CCWC
Councillor Greg Best
CPA/209893

"Mr General Manager with the audit tenders now closed on the 19 April 2012, could you please advise is the CCWA indentified as a PIE (Public Interest Entity) and if so was this part of the audit tender process? Further with regard to existing JWA assets when is it proposed that these assets will be valued for financial reporting purposes and do they include the water stock/inventory in the dams?"

THE MEETING closed at 8.28 pm.

1.4 Address by Invited Speakers

TRIM REFERENCE: F2012/00026 - D02979251

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.***

2.1 Mayoral Minute - Visit to Canberra

TRIM REFERENCE: F2004/07706 - D02990947

MANAGER: Michael Whittaker; General Manager

AUTHOR: Bob Graham; Councillor

The General Manager and I will travel to Canberra on May 22, 2012 to raise various issues with the Federal Government.

It is anticipated that we will meet with the Hon Simon Crean, MP, Minister for Regional Development and other Ministers.

I intend to update the Council of any outcomes from this trip at its Ordinary Meeting to be held on 23 May, 2012.

I formally move:

That Council receive and note the Mayoral Minute, "Visit to Canberra".

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas

TRIM REFERENCE: DA/459/2011/D - D02972031

MANAGER: Peter Fryar; Manager Development Assessment

AUTHOR: Salli Pendergast; Team Coordinator

SUMMARY

A Section 96(2) application has been received for modification of the consent by the deletion of condition 134 that requires provision of a regular shuttle bus service to surrounding areas. 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	Anthony Iannuzzi – Woolworths Ltd
Owner	Fabcot Pty Ltd
Application No	DA/459/2011/D
Description of Land	275 Pacific Highway, Lake Munmorah Lot 2, DP.520220
Proposed Development	Section 96(2) for modification of the consent by the deletion of condition 134 requiring the provision of a regular shuttle bus service to surrounding areas.
Approved Development	Demolition of existing structures and construction of a shopping centre development including a supermarket (shop), medical centre and speciality shops, parking and landscaping.
Site Area	8.167 hectares
Zoning	3(a) Business Centre and 7(a) Conservation
Existing Use	Vacated rural landscape supplies centre
Employment Generation	250 (full time, part time, apprentices & casual staff)
Estimated Value	\$14,751,000

RECOMMENDATION

- 1 ***That Council modify the consent having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, and in accordance with the amended conditions detailed in the schedule attached to the report.***
- 2 ***That Council vary Development Control Plan 2005, Chapter 114 to permit the modified development.***
- 3 ***That Council advise those who made written submissions of its decision.***

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

PRECIS

- Development Consent No. DA/459/2011 was approved by the Hunter and Central Coast Joint Regional Planning Panel (JRPP) on 17 October 2011 for demolition of existing structures and construction of a shopping centre development including a supermarket (shop), medical centre and speciality shops, parking and landscaping on the site. Council's submission to the JRPP requested imposition of "*a condition of consent should DA 459/2011 be approved, requiring the applicant to provide a shuttle bus service as detailed in the DCP*". The JRPP considered the Council's submission and in determining the application imposed condition 134 to address this request as part of their determination of the application.
- The applicant argues that the imposition of the condition is onerous and not the responsibility of the proponent however, that the intent of the control under Clause 2.14 of DCP Chapter 114 has been achieved. The intent of the control is to encourage the use of modes of transport other than the private car.
- The development conditions include the upgrading of the four bus stops in the vicinity of the site which will be of benefit to the existing bus service users visiting the site.
- The development includes the construction of a cycleway along the Pacific Highway in two stages under the Voluntary Planning Agreement and along Tall Timbers Road from the Highway to Chisholm Avenue which is a positive infrastructure outcome for the local community.
- The development includes the provision on the site of parking for mini buses, bicycles and motorcycles (in addition to associated supporting facilities like a covered mini bus/taxi drop off bay, change rooms, lockers and showers) which will assist in encouraging the use of alternate modes of travel to/from the site.
- The existing bus route services now provide six services in the morning (8 am to 12 Noon) from Summerland Point and Gwandalan to the development and six services in the afternoon (12 Noon to 6 pm) from the development to Summerland Point and Gwandalan. These services, together with other mini buses provided by existing mobile home parks, and retirement villages in the locality are considered to be adequate in encouraging the use of transport, other than the private car, to the proposed development.
- It is argued that the provision of a mini bus by the development is highly likely to undermine the viability of existing route services as shoppers will be attracted to a free service. This is likely to result in lesser public bus services being provided throughout the area rather than increasing the current services.

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munmorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

INTRODUCTION

The Site

The site is located on the eastern corner of Tall Timbers Road and Pacific Highway at Lake Munmorah and has an area of 8.167 hectares. A signalised intersection is in operation for these roads. The site has a slope from the south-west to the north-east at the lowest point.

The site consists of mostly cleared, disturbed land with remnant forest in moderate condition along the north and south-eastern areas. Within the north eastern corner of the site containing the remnant vegetation is an intermittent first order drainage line with little or no defined drainage channel and no permanent flow or freestanding water. Located in the north western corner of the site within the conservation zoned area is a large dam and a constructed open drainage channel that extends generally parallel along side the northern boundary from the dam to the low point in the north eastern corner.

Existing vehicular access to the site is via both the Pacific Highway and Tall Timbers Road frontages. Adjoining the northern boundary of the site is a pocket of residential development, and a mining investigation base and adjoining the eastern boundary is existing rural residential development. Opposite the site on Tall Timbers Road are playing fields and rural residential development. Opposite the site on the highway are two manufactured home estates, rural residential development and a reserve.

Surrounding development further afield generally consists of residential and rural residential activities with Lake Macquarie being approximately 1.5 km to the north and Lake Munmorah approximately 650m to the south. The site was previously used as a rural landscape supply centre and for masonry/paving products and has recently been re-zoned to allow for retail land uses. The site is located within a mine subsidence district and is identified on Council's maps as bushfire prone land (buffer to Vegetation Category 1).



3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munmorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

The Proposed Development

Development Consent was granted on 17 October 2011 by the JRPP for the construction of a shopping centre comprising a supermarket (3800m²), specialty shop space (1250m²) for 15 retail tenancies, a medical centre (500m²), ancillary amenities, service and storage areas and associated demolition and earthworks. The approval also included related signage, access, parking and landscaping and construction of a rain garden/detention basin and rehabilitation and revegetation works.

The Section 96(2) application seeks modification to the consent by the deletion of condition 134 which reads:

"134. A regular shuttle bus service shall be provided by the owner/operator consistent with Council's DCP, to provide services to and from surrounding residential areas (which may be complementary to other community bus services)."

Additionally, to support the change, there is a minor amendment to the approved site plan with the replacement of 4 parking spaces by the provision of two mini bus parking spaces and a motorcycle parking area.

The applicant provided the following arguments to justify the need for the change:

- *"Woolworths is not a bus service operator and does not seek to enter this market.*
- *It is not considered appropriate that a retailer should finance bus services which impact directly on the cost of groceries where those services are best provided by existing bus operators such as Busways who receive government funding to support the growth of public bus services and establishing routes to support local users.*
- *No other retail development in the Wyong Shire Council area has had to provide a mini bus service...in similar locations.*
- *Wyong DCP includes sufficient flexibility to allow for the variation of a DCP requirement where the objectives or intent of a control has been achieved.*
- *The site is well serviced by public transport.*
 - *Bus Route 95 which connects Lake Haven with Morisset via Chain Valley Bay, Gwandalan, Lake Munmorah, Mannering Park and Summerland Point, operates along Tall Timbers Road and Pacific Highway past the site. It operates Monday to Friday with three services stopping at Lake Munmorah per day (7.45am, 11.00am and 5.00pm in one direction and 9.45am, 1.00pm and 7pm in the other direction).*
 - *Route 99 which connects Lake Haven and Swansea via Gwandalan, Lake Munmorah, Mannering Park and Summerland Point operates along the Pacific Highway past the site, seven days a week. On weekdays eight services stop at Lake Munmorah per day in each direction (between 7.30am and 6.45pm with two services stopping in the middle of day 11.50am and 12.50pm).*

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munmorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

- *Busways operates a number of school services that connect Lake Munmorah with the surrounding areas (Chain Valley Bay, Gwandalan, Lake Munmorah, Mannering Park and Summerland Point). These operate along the 95, 98 and 99 routes in the weekday morning and afternoon.*
- *The imposition of a condition requiring the proponent of the approved development to provide a regular shuttle bus service to and from the subject site to surrounding residential areas is onerous and not the responsibility of the proponent.*
- *The approved supermarket, once developed, will become a trip destination for specific purposes and not an origin per se. The various residential estates and localities within Lake Munmorah are considered the origin of trips to and from businesses and services within the Wyong Shire LGA, and as such, the responsibility to provide connectivity to these locations through public transport was originally that of the land developers who subdivided the land for residential purposes.*
- *There are many examples of retirement estates and villages as well as general residential estates within the Wyong Shire LGA which provide their own shuttle bus service for residents, providing a regular and viable transport opportunity to reach destination such as shops and businesses.*

Some of these include, but are not limited to:

- *Bayside Retirement Living (Bonnells Bay);*
- *Greenleaf Retirement Resorts (Belmont North);*
- *Lakefront Village (Canton Beach);*
- *Domain Principal Group (Killarney Vale);*
- *Valhalla Village (Chain Valley Bay);*
- *Lake Munmorah Residential Resort (Lake Munmorah).*
- *Improvements to bus facilities which will be delivered as a result of the approval and various conditions were imposed on the development consent for the shopping centre.*
- *Amendment to the plans to include the provision of two mini bus parking spaces and motorcycle parking to encourage these alternative transport modes*
- *A transport plan was submitted with the DA.*
- *There are at least 2 existing bus services in the morning and afternoon to each location and which will go via the subject site (refer Route 95, 98 and 99).*

On this basis it is argued by the applicant that the intent of the control under Clause 2.14 of DCP Chapter 114 has been achieved despite the control itself not being achieved. The intent of the control reads:

- *To encourage the use of modes of transport other than the private car.”*

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

VARIATIONS TO POLICIES

Clause	2.14a
Standard	Transport
LEP/DCP	DCP Chapter 114
Departure basis	Requirement to provide shuttle bus not satisfied as unreasonable.

HISTORY

- RZ/7/2004 rezoned part of site from 10(a) Investigation to 3(a) Business Centre Zone and 7(a) Conservation Zone to enable future development of a shopping centre.
- Development Consent No. DA/459/2011 was approved by the Hunter and Central Coast JRPP on 17 October 2011 for demolition of existing structures and construction of a shopping centre development including a supermarket (shop), medical centre and speciality shops, parking and landscaping.
 - Council's submission to the JRPP requested imposition of "a condition of consent should DA 459/2011 be approved, requiring the applicant to provide a shuttle bus service as detailed in the DCP". The JRPP considered the Council's submission in determining the application and imposed condition 134 to address this request as part of their determination of the application.
- Section 96(1A) DA/459/2011/A for modification to a number of the consent conditions was withdrawn 14 December 2011.
- Section 96 (1A) DA/459/2011/B for modification various conditions is currently under assessment.
- Section 96 (1A) DA/459/2011/C for modification to the floor plans to allow for a tenancy for the retail sale of liquor was withdrawn on 17 April 2012.

PERMISSIBILITY

The subject site is zoned part 3(a) Business Centre and part 7(a) Conservation under the Wyong Local Environmental Plan (WLEP) 1991. The proposed use as 'shops' and a 'medical centre' are not identified as prohibited uses under the zoning table and are thereby permissible with consent within the 3(a) zone.

The only development located within the 7(a) zone part of the site includes a drainage structure serving the development. Clause 30 of WLEP allows for this drainage structure to be located within 20 metres of the adjacent 3(a) zone boundary. In accordance with Clause 10 of the WLEP, the modified development continues to be permissible within the zonings and compatible with the zone objectives within which the development is to be carried out.

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

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 (Infrastructure) 2007
- State Environmental Planning Policy (State and Regional Development) 2011
- Wyong Local Environmental Plan 1991
- Wyong Shire Development Control Plan 2005
 - Chapter 61 - Carparking
 - Chapter 67 - Engineering Requirements for Developments
 - Chapter 69 - Controls for Site Waste Management
 - Chapter 70 - Notification of Development Proposals
 - Chapter 81 - Retail Centres
 - Chapter 114 – Lake Munmorah Village Centre
- Landscape Policy and Guidelines
- Waste Management Guidelines
- North Wyong Structure Plan
- Wyong Retail Centres Strategy and Retail Centres Strategy Review 2006

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 as sought to be modified 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.

Climate Change

The potential impacts of climate change on the proposed development were considered by Council as part of its original assessment of the proposal and there are no changes under the proposed modifications that would require any changes to the earlier consideration of this matter.

Motor vehicle dependence in relation to climate change was also a consideration under the original assessment of the proposal. This is because shopping centres typically tend to encourage car dependence rather than not. The proposal included improvements to existing pedestrian, cycling and bus service facilities, although given the isolated location of the site, there will be a strong likelihood of visitors arriving to the site by car. To further address this issue of car dependence there is a need to support and encourage alternative modes of transport to/from the site.

Deletion of the requirement for the regular shuttle bus service may potentially result in an increase in parking demand on the site, however, the reasonableness of this requirement for the long term has been considered and preference is given to retaining and enforcing those original conditions that encourage alternative modes of transport to/from the site.

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

These conditions require the applicant to upgrade the existing bus service facilities in the vicinity of the site, improve pedestrian access to the site, and to provide cycling 'end of trip' facilities as part of the development. Additionally, the applicant has now amended the plans to provide two mini bus parking spaces and a motorcycle parking area that will complement the proposed mini bus/taxi drop off area in encouraging alternative transport options to/from the site other than the car.

ASSESSMENT

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

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

Section 96 of the Environmental Planning and Assessment Act 1979

The applicant is seeking amendments to DA/459/2011/D under Section 96(2) of EP&A Act 1979. Having regard to the provisions of Section 96(2) of the EP&A Act 1979, it is considered that the amended proposal is substantially the same development approved by Council.

Section 96(2) states:

(2) *Other modifications*

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

The proposed amendment is considered to be substantially the same development to that which was previously approved on the site. The application was placed on public exhibition with the submissions received during the notification period considered during the assessment process and addressed further in the report. In accordance with Section 96(3), those relevant matters referred to in Section 79C (1) have been assessed under the application. The application is considered to be consistent with the requirements of Section 96(2) and the modification is therefore recommended for approval.

State Environmental Planning Policy (Infrastructure) 2007

The development has a frontage to the Pacific Highway which is identified as a classified road. However, there are no modifications proposed that further impact the safe, effective and ongoing operation and function of the highway or that alter the original conditions imposed in relation to the classified road. Therefore no referral to the Roads and Maritime Services was necessary and no further assessment is required.

State Environmental Planning Policy (State and Regional Development) 2011

The Hunter and Central Coast JRPP determined the development application due to the development having an estimated value exceeding \$10 million. Under Clause 13F(1) of SEPP (Major Development) 2005 applications for Section 96(2) modifications previously granted by the JRPP were required to be determined by the same Panel but under Clause 13F(2)(i) Council was the consent authority for applications of minimal environmental impact made under Section 96(1A). However, from 1 October 2011, relevant legislation changed the classes of regional development to be determined by the JRPP so that regional panels no longer determine general development with a capital investment value of between \$10 million and \$20 million.

SEPP (State and Regional Development) 2011 now sets out the functions of regional panels in determining applications for regional development and replaces the former classes of regional development set out in Part 3 of SEPP (Major Development) 2005. Development no longer included in the classes of regional development will now be determined by Council.

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munmorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

Under the savings and transitional provisions set out in Schedule 6A Clause 15 of the EP&A Act Amendment (Part 3A Repeal) Act 2011, all Section 96 applications for modification of development previously determined by the JRPP are to be determined by Council.

Wyong Local Environmental Plan 1991

The modified development remains consistent with the relevant clauses of WLEP 1991.

Wyong Shire Development Control Plan 2005

Chapter 114 – Lake Munmorah Village Centre

DCP Chapter 114 is a site specific DCP prepared in respect of the rezoning of the site for a shopping centre development. This DCP outlines development of the shopping centre in two stages on the site, with Stage 1 providing up to 5000m² gross retail floor space by 2011/2012 and Stage 2 providing up to an additional 5000m² gross retail floor space after 2021. The application for modification does not include any changes to the previous aspects and compliance under the DCP in relation to design principles, site access and parking, external presentation and visual appearance, energy efficiency, water sensitive urban design, acoustic and lighting controls, design safety and security, landscaping, infrastructure and waste management, construction management, signage, urban interface area (UIA) requirements, building height, setback and floor space ratio.

The applicant has argued that the imposition of a condition requiring the provision of a regular shuttle bus service to and from the site to surrounding areas is onerous and not the responsibility of the proponent. In this regard, it is requested that condition 134 be deleted from the consent. The applicant argues for the variation on the basis that the intent of the control under Clause 2.14 of the DCP has been achieved despite the control itself not being satisfied. The requirement for a mini bus service was included under the DCP due to the isolated and relatively under-developed character of the site and its context. The objective for the control states:

- To encourage and facilitate the use of modes of transport other than the private car.

Clause 2.14a of the DCP relates to transport for the development on the site and includes the requirement for preparation of a Transport Plan that identifies and addresses a reduction in the demand for travel by private car by:

- i providing a shuttle/mini bus bus service to Summerland Point, Gwandalan, Chain Valley Bay and Lake Munmorah, with a minimum of two services to and from the development in the morning and afternoon, each day.*
- ii providing a shared off-road cycleway, which is safe and direct:*
 - *along northern side of the Highway, connecting to the schools in Carters Road;*
 - *along southern side of the Highway, connecting to the residential areas in the vicinity of Saliena Ave and Colongra Bay Road;*
 - *in Tall Timbers Road to Deakin Avenue and;*
 - *connecting Kemira Road to the development.*
- iii providing appropriate pedestrian facilities for pedestrians to cross the Highway.*

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

The applicant has argued that Clause 2.14a has been addressed as follows:

“In respect of Clause 2.14ai, a Transport Plan was submitted with the DA that identified that Route 95, 98 and 99 all service the site and that at least two existing bus services in the morning and afternoon go via the subject site to each location (ie. Summerland Point, Gwandalan, Chain Valley Bay and Lake Munmorah). In respect of Clause 2.14a ii, a Voluntary Planning Agreement has been executed to address the requirements for a safe and direct shared off-road cycleway along the highway and conditions have been imposed requiring construction of a shared path 2.5 metres in width on the eastern side of Tall Timbers Road, from the Pacific Highway to Chisholm Avenue. In respect of Clause 2.14a iii, there is an existing signalised crossing for pedestrians to cross the highway and additional conditions of consent have been imposed in relation to connecting pedestrian facilities in Tall Timbers Road and along the highway.”

The remainder of Clause 2.14 reads:

- b Provision of designated bus bays incorporating bus shelter, seating and lighting for new or existing bus routes in the vicinity of the development site.*
- c Provision of bicycle parking in the form of racks in appropriate and well lit and sheltered locations protected by passive surveillance and/or CCTV.*
- d Provision of showers, change rooms and lockers for staff in accordance with the DoP/RTA document - Planning Guidelines for Walking and Cycling.*
- e Preparation of a workplace travel plan.*

The applicant has argued that in relation to subclause 2.14b, the development will enable the delivery of these facilities. Conditions were imposed on the consent requiring the upgrade and/or provision of bus infrastructure on both sides of the highway and on both sides of Tall Timbers Road. These bus facilities will include a set down area capable of being serviced by a bus, signage and a bus shelter with a seat. In relation to subclauses 2.14b and c, bicycle parking and a bike store with lockers, change rooms and showers has been identified on the approved plans and in the transport plan. Conditions were also included on the consent to reinforce the requirements for the provision of showers, change rooms and lockers for staff and bicycle parking in well lit and sheltered locations for staff and visitors to be provided in accordance with the DCP.

In relation to subclause 2.14e, information was provided with the Transport Plan submitted for the development with the aim of addressing this aspect of the DCP. The aim of the workplace travel plan is to encourage consideration of alternative transport modes like public transport for travel purposes in order to reduce car dependence. In the Transport Plan, the Applicant has stated that a workplace travel plan will be developed by the future tenants of the centre that satisfies the identified principles outlined in the Transport Plan.

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

On this basis it is acknowledged that there are a number of alternatives now provided by the applicant that would encourage and facilitate the use of alternative modes of transport to the car which include:

- Provision of two mini bus parking spaces in addition to the covered mini bus/taxi drop off bay to accommodate mini buses from surrounding retirement villages, mobile home parks and clubs.
- Provision of dedicated and identified motorcycle parking.
- Provision of bicycle parking for visitors (racks) and for staff (bike storage room) and related facilities like change rooms, lockers and showers.
- Provision of a shared off road cycle way along the highway under the executed VPA and along Tall Timbers Road (from the highway to Chisholm Avenue) under consent conditions.
- Upgraded pedestrian travel and crossing facilities around the site to ensure transition between existing and proposed infrastructure.
- Upgraded bus service facilities (bus stops and pedestrian access to these stops) on both sides of Pacific Highway and Tall Timbers Road to increase their appeal and attractiveness to existing and potential patrons.

On this basis, the variation sought to the requirement is considered reasonable and is therefore supported.

Chapter 61 - Carparking

The modified proposal includes the replacement of 4 parking spaces with two mini bus parking spaces and motorcycle parking. The development generates a requirement for 329 on-site parking spaces under Chapter 61 of the DCP. A total of 342 spaces were originally approved to be provided within an at-grade parking area to service the development. This represents the provision of 13 spaces in excess of the DCP requirement. On this basis, the proposed loss of four spaces plus a small area of landscaping is acceptable as the amendment provides parking for vehicles that are an alternative to the car and that are more fuel efficient modes of transport.

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

The relationship to the regional and local context and setting.

The modified proposal does not adversely impact on the character or amenity of the locality and streetscape or on the scenic qualities of the landscape. The scale, form, character, density and design of the development continues to sit well within the locality. There are no significant or unreasonable impacts to the amenity of adjacent properties associated with the modified proposal in terms of privacy or overshadowing.

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

The access, transport and traffic management measures.

The applicant has amended the proposal to provide two designated mini bus parking spaces and a motorcycle parking area in addition to the covered mini bus/taxi drop off zone originally proposed along the front of the centre. These spaces will be available to the public and have been provided on the site to better accommodate the existing mini buses from surrounding retirement villages and mobile home parks that are expected to visit the site.

The provision of mini bus parking has resulted in a loss of 4 parking spaces and a small area of landscaping but has resulted in the provision of two mini bus spaces plus motorcycle parking spaces. Under the original consent, parking provided for the development exceeded the number required under Council's DCP. In this regard, the total parking demand for the development under the DCP is 329 spaces.

The development provides an at-grade parking area to service the development containing 342 spaces which is 13 spaces in excess of the DCP requirement. On this basis, the loss of four spaces from this total is acceptable given that the modification proposes parking to accommodate alternative modes of transport than the car (ie. mini buses and motorcycles) .

Condition 134 requires a regular shuttle bus to be provided by the owner/operator consistent with Council's DCP, that will provide services to and from surrounding residential areas which may be complementary to other community bus services. In this regard, there is no objection to the deletion of Condition 134 provided that:

- In accordance with the conditions of consent that formal bus zones, with signage, seats, shelters and concrete paths connecting the bus stops to the development's entry, are located in front of the development on both sides of the Highway and Tall Timbers Road, and
- The development provides mini-bus parking, motorcycle parking, bicycle parking, a covered mini-bus and taxi drop off and facilities to support these facilities (eg. change rooms, showers, lockers and pedestrian connections).

The reasons in support of the variation include:

- The existing bus route services now provide six services in the morning (8 am to 12 noon) from Summerland Point and Gwandalan to the development and six services in the afternoon (12 noon to 6 pm) from the development to Summerland Point and Gwandalan. These services, together with other mini buses provided by existing mobile home parks, Over 50's and retirement villages, etc, are considered to be adequate in encouraging the use of transport, other than the private car, to the proposed development.
- Busways in its submission dated 1 July 2011, identified the development as strengthening the demand for existing public transport services.

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

- Provision of a mini bus by the development is highly likely to undermine the viability of existing route services as shoppers will be attracted to a free service. This is likely to result in reduced public bus services being provided throughout the area rather than increasing the current services. With an increase in demand for the bus services to/from the site there will be an opportunity for an increase in the number of future bus services available to the community.
- Residents of the area are currently travelling long distances to Budgewoi, Lake Haven etc to do most of their weekly shopping. With the proposed development, these trips will be much shorter.

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

There is no adverse impact upon the use of surrounding public open space as a consequence of the proposal. The development will increase the pedestrian activity in and around the site and will provide additional semi-public space through an increase in the retail activities and opportunities available within the locality. Under the Voluntary Planning Agreement (VPA) for the development, financial contributions towards a proposed new cycleway along the Pacific Highway will increase the public recreational opportunities available within the locality. The development will therefore improve the pedestrian and cycling links surrounding the site and the modification proposed will not detract from this.

The impact on utilities supply.

There are no changes proposed to this aspect of the development that would require further consideration.

The effect on heritage significance.

The site is not heritage listed and there are no heritage listed properties within the vicinity of the site.

Any effect on other land resources.

There are no unreasonable or significant adverse impacts on other land resources associated with the proposal.

Any impact on the conservation of water.

There are no changes proposed to this aspect of the development that would require further consideration.

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

There are no changes proposed to this aspect of the development and therefore no further discussion is required.

Any effect on quality of air and microclimate conditions.

There are no changes proposed to this aspect of the development and therefore no further discussion is required.

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

Any effect on the flora and fauna.

The proposed modification does not impact adversely on biodiversity or any existing vegetation or proposed landscaping originally assessed.

The provision of waste facilities.

There is no change proposed under the Section 96 application to the conditions originally imposed in relation to waste management.

Whether the development will be energy efficient.

There are no changes proposed to this aspect of the development that would require further consideration and discussion.

Whether the development will cause noise and vibration.

There are no changes proposed to the development under the Section 96 application that would result in increased noise or vibration nor is there any change proposed to the conditions originally imposed in relation to noise and vibration.

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

The site is identified as bushfire prone land under Council's map and subject to the provisions of Planning for Bushfire Protection (PBP) 2006. There is no change proposed to this aspect of the proposal that would worsen the extent of risk to this hazard. No further discussion is required.

Any risks from technological hazards.

There are no changes to the proposal that would result in any adverse risks from technological hazards, therefore no further assessment of this aspect is required.

Whether the development provides safety, security and crime prevention.

There is no change proposed under the Section 96 application to the conditions originally imposed in relation to the principles of Crime Prevention Through Environmental Design.

Any social impact in the locality.

The modified proposal will continue to provide beneficial social impacts through the creation of additional employment opportunities and the availability of retail services.

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

Any economic impact in the locality.

The modified proposal will continue to result in direct and indirect employment opportunities for the Central Coast during the construction period and subsequent operation of the centre. The development will provide positive benefits to economic growth for the region and additional retail services and opportunities. Concern has been raised regarding the unintended impact that the availability of a free bus service to the community would have on the financial viability of the existing bus service. There are arguments that the provision of a free bus service to/from the site may adversely impact on the patronage of, and level of demand for, the existing bus services in the area.

Any impact of site design and internal design.

There are minor changes to parking arrangements resulting from the inclusion of two mini bus parking spaces and a motorcycle parking area.

However, these changes do not significantly change the layout or internal design of the development. There are no substantial changes proposed to this aspect of the proposal that would require further consideration.

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

There is no change proposed under the Section 96 application to the conditions originally imposed in relation to construction management during the works for the development.

Any cumulative impacts.

There are no significant or unreasonable cumulative impacts associated with the proposal.

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

There are no site constraints which under the modification of the proposal would designate the site unsuitable for the development. The modified proposal continues to fit well into the locality and does not change any site attributes. Under the changes proposed, the development as modified continues to be compatible with existing development within the locality.

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 9 submissions being received. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979. A summary of the submissions is detailed in the table below.

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munmorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

Doc. No	Summary of Issues	Response
D02935413	<p>Objection.</p> <ul style="list-style-type: none"> • Confused as to how this shuttle bus service would operate, if it is not provided then people wishing to access the site will have to drive their car or motorbike. There is provision for a shared walking/cycling path on the eastern side of the Pacific Highway where incidentally there are no houses adjacent to this facility. • Fabcot will need to construct a shared walking/cycling path for the full length of Tall Timbers Road on the northern side. This will offer residents of Chain Valley Bay South, Kingfisher Shores and Macquarie Shores Village a viable alternative to driving to the shopping centre. 	<p>The development has accommodated parking for alternate modes of travel to/from the centre including mini bus parking, motorcycle parking, taxi /mini bus drop off bicycle parking for staff and visitors and supporting facilities.</p> <p>Four bus stops along both sides of highway and Tall Timbers road are to be upgraded under the consent conditions to increase the attractiveness for patrons.</p> <p>Executed VPA and conditions of consent provide for shared pathway along highway and down Tall Timbers Road (from the highway to Chisholm Avenue). Consideration was given to the request for a shared pathway down the length of Tall Timbers Road at the JRPP meeting for determination of the DA, however, this request was not considered reasonable given the agreement for the works under the VPA.</p>
D02931127	<p>Support.</p> <ul style="list-style-type: none"> • Cannot understand Council asking Woolworths to provide a shuttle bus, transport is not their business. • Sets an unacceptable precedent. • People of this area are used to travelling to the existing shops at Chain Valley Bay, Lake Munmorah, North Lakes and Lake Haven either by public transport, their car or the buses provided by the various Leisure/Over 50's etc. Parks. 	<p>Council's DCP 114 required the provision of a shuttle bus to surrounding areas given the isolation of the site from existing services. The applicant has provided arguments how the objective of the DCP control has been satisfied despite the control itself not being addressed. The arguments provided are considered reasonable in this instance.</p>
D02936372	<p>Objection.</p> <ul style="list-style-type: none"> • Area does not require another shopping centre. Within 20 min drive in any direction you can access Coles, Woolworths, Aldi not to mention numerous general stores in the Chain Valley Bay, Lake Munmorah, Mannering Park, Gwandalan Summerland Point areas all have their own shopping centres. There is public transport as well as community transport to access these areas. • Building this structure will cause the failure of many of these businesses. • We do not believe that you have consulted the community 	<p>Development Consent for the shopping centre (DA/459/2011) was approved by the Hunter and Central Coast JRPP on 17 October 2011. The issues raised relate to the assessment and determination of the original application. Council met all of its legal obligations for assessment and notification of the earlier application. The current application is seeking deletion of Condition 134. There is a public bus with a number of services that currently passes the site.</p>

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

Doc. No	Summary of Issues	Response
D02937471	<p>Support</p> <ul style="list-style-type: none"> • As an owner of an adjacent property, I have no objection to the deletion of the condition. • A shuttle bus service provided by the applicant is not appropriate • A private shuttle bus will result in the existing bus service being undermined which may result in lesser public bus services throughout the area. • People will make their own way to this much needed development, just as they do to Westfield Tuggerah or Lakehaven Shopping Centre. They will use their own vehicle to transport and will jump in their car. • Bus not practical and will not be patronised. • This development should have been up and running by now. 	Noted.
D02942342	<p>Objection to entire development</p> <ul style="list-style-type: none"> • Lack of community consultation over 9 years whilst Woolworths got their act together. • Community totally divided due to this development. • Applicant deceived community as proposal more than a supermarket and medical centre. • Need to start again with a clean slate. • Community Liaison Committee required but not yet provided. Request Council insist on its establishment and \$50k/yr from the applicant for the committee. • When do all the modifications/ games stop. • The people most affected by deletion are the ones who supported development , over 50's developments. • Woolworths gone back on their word and reflects a lack of support for the community. • Lack of consultation on application and no public meetings for community to voice concerns. 	<p>Development Consent for the shopping centre (DA/459/2011) was approved by the Hunter and Central Coast JRPP on 17 October 2011. The issues raised relate to the assessment and determination of the original application. Council met all of its legal obligations for assessment and notification of the earlier application. The current application is seeking deletion of Condition 134.</p> <p>Condition 135 requires that the applicant establish a resident liaison committee to meet regularly with residents groups during construction. Construction has not as yet commenced on the site and the applicant is not in breach of the condition.</p>

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munmorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

Doc. No	Summary of Issues	Response
D02951283	<p>Support</p> <ul style="list-style-type: none"> • As a local resident I have been looking forward to having our own Shopping Centre for many years. I am totally against this proposal of a Shuttle Bus that has been approved without any advertisement or negotiations from the local population of Lake Munmorah. • There seems to be a minority of people that are trying to put any difficulties forward to try and stop this development. The 'Forgotten North' needs this Shopping Centre not only for shopping but for job opportunities for our youth. • We already have a Bus service that if the Shuttle Bus came into play would be neglected. Therefore the Shuttle Bus would not be appropriate. 	Noted.
D02963360	<p>Objection</p> <ul style="list-style-type: none"> • Development should have adequate access via public transport services which are nearly non existent. • Existing bus services do not allow access over the weekend as don't operate. • Residents of Chain Valley Bay could walk if there was a pathway. • Elderly in over 55's villages rely on private mini buses which are only once a week. • Definite need for a mini bus service • No offer of alternative transport. • Woolworths should provide an access path for the length of tall Timbers Road and should link with other existing paths and cycleways • Pathway from Saliena Avenue to Colongra Bay Road should be extended to Elizabeth Bay Road and this would allow for the residents of Lake Munmorah and the schools via the over pass. 	<p>There is a public bus with a number of services that currently passes the site. It is anticipated that this service will expand with an increase in demand for the service created by the development of the site. The development will provide parking for alternate modes of travel to/from the centre including mini bus parking, motorcycle parking, taxi /mini bus drop off bicycle parking for staff and visitors and supporting facilities.</p> <p>Four bus stops along both sides of highway and Tall Timbers road are to be upgraded under the consent conditions to increase the attractiveness for patrons.</p> <p>Executed VPA and conditions of consent provide for shared pathway along highway and down Tall Timbers Road (from the highway to Chisholm Avenue). Consideration was given to the request for a shared pathway down the length of Tall Timbers Road at the JRPP meeting for determination of the DA, however, this request was not considered reasonable given the agreement for the works under the VPA.</p>

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

Doc. No	Summary of Issues	Response
D02950738\ D02967997	<p>Support</p> <ul style="list-style-type: none"> • Requirement is unnecessary given the nearby manufactured home villages have their own buses and there is currently a public bus service passing the site. • Provision of a shuttle bus service will have an adverse affect on the patronage of the existing shops at Lake Munmorah and Chain Valley Bay. These shops enjoy the custom of people who do not drive and are able to walk to/from these shops. A further incentive to shop at Woolworths will not be helpful for the ingoing viability of the existing shops. • Hope to resolve this issue quickly to allow construction to commence. 	Noted.
D02967994/ D02947197	<p>Objection</p> <ul style="list-style-type: none"> • We are a over 50's village in Lake Munmorah and will be taking the bus everyday to the new centre. Currently we travel 3 days a week to Lakehaven and daily to local shops in Anita Avenue. • Problem is no mini bus parking at the shopping centres. • Several other similar villages that need mini bus parking. • Request mini bus parking on the site not too far from the entry to cater for elderly residents of villages. 	Two mini bus parking spaces plus a mini bus/taxi drop off area are included under the modified plans for the development in close proximity to the entry of the shopping centre building.

Any submission from public authorities.

There were no referrals to, or submissions from, public authorities associated with the modification.

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

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

The development will provide additional employment opportunities and retail services which are considered beneficial to the local and community interest.

OTHER MATTERS FOR CONSIDERATION

Voluntary Planning Agreement

The applicant entered into a VPA with Council to fund the construction of a shared pathway along both side of the Pacific Highway adjacent to the site in two stages. Council is to carry out the works once the payment is made by the applicant.

3.1 DA 459/2011/D - Modification of the consent for shopping centre at Lake Munmorah to delete Condition No 134 requiring the provision of a regular shuttle bus to surrounding areas (contd)

The approved development represents the first stage of that agreement and the funded works include a pathway extending from Saliena Avenue to Colongra Road on the southern side of the Pacific Highway. Under the second stage, the proposed funded works will extend along the northern side of the highway from the site, eastwards to Carters Road (adjacent to Lake Munmorah High School). The modification to the Consent does not involve any change to the Voluntary Planning Agreement executed in relation to the development on the site.

CONCLUSION

The Section 96(2) application seeks modification of the consent issued for a shopping centre by the deletion of Consent Condition 134 which requires provision of a regular shuttle bus service to and from the site to surrounding areas. The applicant has argued that the imposition of the condition is onerous and not the responsibility of the proponent, however, that the intent of the control under Clause 2.14 of DCP Chapter 114 has been achieved despite the control itself not being satisfied.

The intent of the DCP control is to encourage and facilitate the use of modes of transport other than the private car. In this regard, it is considered that development as conditioned includes measures encourage and facilitate the use of modes of transport other than the private car.

The development includes the proposed upgrading of the four bus stops in the vicinity of the site which will contribute greatly to the attractiveness of the existing bus service for users visiting the site. The development includes the construction of a cycleway along the Pacific Highway in two stages under the Voluntary Planning Agreement and along Tall Timbers Road from the Highway to Chisholm Avenue which is a positive infrastructure outcome for the local community. Additionally, the provision of parking for mini buses, bicycles and motorcycles (along with associated supporting facilities like a covered mini bus/taxi drop off bay, change rooms, lockers and showers) will assist in encouraging the use of alternate modes of travel to/from the site. The intent of the DCP control is considered to be satisfied by the initiatives included under the modified development. It is on this basis that the variation to the requirement for provision of a shuttle bus is considered reasonable.

The development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted. The Section 96(2) application for deletion of the condition 134 is recommended for approval subject to modified conditions as attached.

ATTACHMENTS

- 1 Schedule of Modified Conditions D02972042

Date: 11 April 2012
Responsible Officer: Salli Pendergast
Location: 275 Pacific Highway, LAKE MUNMORAH NSW 2259
 Lot 2 DP 520220
Owner: Fabcot Pty Ltd - 3
Applicant: Woolworths Ltd
Date Of Application: 17 February 2012
Application No: DA/459/2011/D
Proposed Development: Shopping Centre including a Supermarket and other Shops
 (Amended Application)
Land Area: 81670.00

PROPOSED CONDITIONS

Approved Plans

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

Title	Drawing No.	Rev	Date	Drawn By
Architecturals	10061 DA1.02	M	04.08.11	D & R Architects
Architecturals	10061 DA1.03	L	26.7.11	D & R Architects
Architecturals	10061 DA1.04	G	26.7.11	D & R Architects
Architecturals	10061 DA1.05	F	26.7.11	D & R Architects
Architecturals	10061 DA1.06	J	26.7.11	D & R Architects
Architecturals	10061 DA 1.08	D	26.7.11	D & R Architects
Architecturals	10061 DA1.009	C	26.7.11	D & R Architects
Landscape Plan	L01	C	3.6.11	Habitation
Landscape Plan	L02	A	1.6.11	Habitation

as modified (under Section 96 application No.DA/459/2011/D) by unnumbered excerpt of site plan title mini bus and motorcycle parking plan'.

Certificates/Engineering Details

- 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 the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.

Certificates – Application and Approval

- 4 Where conditions of this consent require approval from Council under the Roads Act 1993, Local Government Act 1993 or Water Management Act 2000, a completed Subdivision Construction Certificate application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

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.

- 5 A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building. Should Council not have any record of the existing fire safety measures in the building or on the land a separate list of these existing fire safety measures is to be submitted. The lists must describe the extent, capability and basis of design for each measure prior to the issue of a Construction Certificate.
- 6 Prior to the issue of a Construction Certificate, satisfactory structural plans prepared by a suitably qualified Registered Structural Engineer are to be submitted for the approval of the Accredited Certifier, for the following building elements:
 - All structural aspects of the building.
 - All retaining walls.

Erosion and Sediment Control – Design Requirements

- 7 Prior to the issue of a Construction Certificate, design drawings for the control of soil erosion on the site and the prevention of silt discharge into drainage systems and waterways must be provided for the approval of the Accredited Certifier. Required design drawings must include all major stages of construction and sequences of work together with treatments necessary at each of these stages. The design drawings must be prepared in accordance with the Landcom publication 'Soils and Construction – Managing Urban Stormwater' (Blue Book).

Dust Control Requirements

- 8 Prior to the issue of a Construction Certificate, suitable details must be provided for the approval of the Accredited Certifier of an appropriate system to control dust emissions from the site during construction works. The approved method of controlling dust emissions from the site is to be implemented and be maintained for the duration of construction works on the site.

Liquid Trade Waste Requirements

- 9 Prior to the issue of the Construction Certificate, the developer must submit a trade waste application for approval to Council as the Water and Sewer Authority in order to discharge liquid trade waste into the sewerage system.

Stormwater Drainage - Design Requirements

- 10 Stormwater drainage works external to the site and discharging into a public system or public land requires approval from Council under Section 68 of the Local Government Act 1993. Detailed design drawings prepared in accordance with Council's Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development* must be approved by Council prior to the issue of a Construction Certificate. All other stormwater management works must be approved by the Accredited Certifier.
- 11 The submission to the Accredited Certifier of a detailed stormwater management plan prior to issue of the Construction Certificate, generally in accordance with the drawings prepared by Mott MacDonald Hughes Trueman (Drawing No's 288542LM01-DA-01, 288542LM01-DA-02 and 288542LM01-DA-03, all Revision E and dated 2/8/2011), with the following design amendments/additions:
- High-flow bypass for stormwater flows in excess of the 2 year ARI design storm immediately upstream of the basin to divert flows to a suitably sized level spreader catering for the critical duration 100 year ARI design storm. The level spreader shall be located east of the loading/truck manoeuvring area.
 - Upsize the proposed rainwater tank to a minimum of 250kL capacity, for use in all toilets within the development and irrigation of landscaping.
 - Deletion of the proposed block retaining wall on the detention basin. Landscaped earthen batters must be provided on the external northern, eastern and western sides of the basin. Alternative arrangements must be made to provide the required storage volume without encroaching northward.
 - Provision of a safety barrier system around the perimeter of the basin complying with AS1926.
 - Preparation of an operation and maintenance manual for the operation of the stormwater management system. Suitable access for maintenance vehicles to the basin must be provided.

The plans must be prepared in accordance with *AS/NZS3500.3:2004* and Council's Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development*, and certified by a practicing and qualified civil engineer.

Vehicle Access and Parking - Design Requirements

- 12 The submission to the Accredited Certifier of lighting design drawings for the carpark and public places. The design shall be prepared in accordance with the requirements of AS/NZS 1158 and AS 4282-1997, including the provision of current best practice energy efficient lighting and be approved by the Accredited Certifier prior to issue of a Construction Certificate.

All external lighting is to be of a type that minimises overspill into retained vegetated areas within the 7 (a) Conservation Zone.

- 13 The submission to the Accredited Certifier of a detailed car parking design. The design shall include:
- Pavement marking, appropriate signage and physical controls detailed for the carpark, access driveway, pedestrian crossings and circulation roads and the design shall ensure one way egress to the Pacific Highway.
 - Pavement design able to withstand anticipated vehicle loading.
 - Wheel stops for parking spaces adjacent to the covered walkway
 - Additional signage and pavement marking shall be provided at the entry to the staff parking/loading area advising the general public that access is restricted to staff, service and delivery vehicles only.
 - Prior to issue of a Construction Certificate the plans are to be amended indicating seven (7) accessible parking spaces to be provided for the development in close proximity to the building entry connected by accessible path of travel to the entry.
 - Provision of two mini bus parking spaces and motorcycle parking as shown on the plan titled 'Mini bus and motorcycle parking plan'. The mini bus bay dimensions must cater for manoeuvring by a medium rigid vehicle.

The design drawings shall be prepared in accordance with the requirements of AS/NZS 2890 – Parts 1, 2 and 6, and be approved by the Accredited Certifier prior to the issue of a Construction Certificate.

Water and Sewer Services - Design Requirements

- 14 The developer must submit an application to Council under Section 305 of the Water Management Act 2000 for any requirements for the obtaining of a Section 307 Certificate of Compliance. The application must be made prior to the issue of the Construction Certificate. **Note:** The Section 305 Notice may contain requirements associated with the development that must be completed prior to the issue of the Construction Certificate.
- 15 Any relevant approvals from the NSW Office of Water are to be obtained for the sewer works where they cross a watercourse on the site.

Roadworks - Design Requirements

- 16 Prior to the commencement of detailed design works within any public road, contact should be made with the National Community Service "*Dial before you Dig*" on 1100 regarding the location of underground services in order to prevent injury and personal liability. Enquiries should provide the property details and the nearest cross street/road.
- 17 The submission to the Council as the Roads Authority of a 'detailed design stage' Road Safety Audit for all road works prepared by a Level 3 Road Safety Auditor recognised on the NSW Register of Road Safety Auditors. Any deficiencies identified within the audit must be resolved in consultation with Council prior to the approval of design drawings.

- 18 The submission to Council as the Roads Authority of street lighting and reticulation design drawings for Tall Timbers Road. The design shall be prepared in accordance with AS/NZS 1158 and AS 4282-1997, including the provision of current best practice energy efficient lighting, documentation confirming a minimum of twenty (20) year design life and be approved by the Council as the Roads Authority prior to issue of a Construction Certificate.
- 19 The submission to Council of Civil Works design drawings and specifications, generally in accordance with the drawings prepared by Mott MacDonald Hughes Trueman (Drawing No 288542LM01-DA-01, Sheet 1, Revision E and dated 2/8/2011), with the following design amendments/additions:
- Kerb and guttering for the Pacific Highway street frontage of the development,
 - Kerb and guttering for the both sides of the Tall Timbers Road for the full street frontage of the development and extending into, and forming part of, the Pacific Highway/Tall Timbers Road traffic control signal design.
 - Tall Timbers Road shall be widened to a 4 traffic lanes from the Pacific Highway to at least 35 metres (excluding tapers) north past the vehicle access.
 - The Tall Timbers Road vehicle access to the development shall be provided as an intersection, with the entry and exit to be designed as if for a public roadway.
 - The asphalt wearing surface in Tall Timbers Road within the vicinity of the vehicle access to the development shall be designed as a polymer modified asphalt to resist heavy braking and screwing from delivery/service vehicles. Details of the surfacing is to be included in the pavement design report submitted to Council as the roads authority for consideration.
 - Bus stops and associated infrastructure on both sides of Tall Timbers Road, south of the vehicle access and on both sides of the Pacific Highway. All bus stops are required to provide a set down area capable of being serviced by a kneeling bus, signage and bus shelter with seat.
 - Concrete footpath 1.2 metres wide on west side of Tall Timbers Road, from the bus stop to the marked pedestrian crossing at the intersection of Pacific Highway and Tall Timbers Road.
 - Provide street stormwater drainage and associated infrastructure.
 - The Tall Timbers Road stormwater pipeline must be connected to the existing inlet of the downstream pipeline, and interconnection with the existing piped road culverts.
 - Extension of road culverts on the western side of Tall Timbers Road to cater for new carriageway width. Inlet infrastructure must be located outside the road clear zone.
 - The Pacific Highway stormwater pipeline must be interconnected with the existing road culverts, and be extended into the development with provision of suitable scour protection/energy dissipation.
 - The proposed kerb inlet pit within the Pacific Highway bus zone must be relocated outside of the passenger set down area.
 - The road verge shall be regraded to 4% fall from the boundary to the top kerb street frontage of the development.
 - Concrete Shared Path 2.5 metres wide on the eastern side of Tall Timbers Road, from the Pacific Highway to Chisholm Avenue.
 - Flexible pavement designed to cater for a design traffic loading of 6.1 x 106 equivalent standard axles (ESA).

- Any associated works to ensure satisfactory transitions to existing infrastructure

Required design drawings are to be prepared in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development and must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate.

Acoustic

- 20 Prior to the issue of the Construction Certificate full compliance details shall be made apparent on the plans and specifications accompanying the Construction Certificate application demonstrating compliance with the recommendations outlined in the acoustic report prepared by Reverb Acoustics, report number 11-1558-R2 dated May 2011.

Potentially Contaminated Land Requirements

- 21 Prior to the issue of a Construction Certificate, an appropriately qualified consultant must be engaged to carry out a detailed site investigation report to determine the level of contamination of the site and to prepare a remedial contamination action plan. Such remedial contamination action plan must be submitted to Council as the Consent Authority for approval.

Ecological/Tree Requirements

- 22 Prior to the issue of any Construction Certificate, trees and native vegetation proposed for retention and those approved for removal must be clearly identified on all the final engineering and landscaping plans. All fenced tree protection areas must be clearly marked as "No Go Area" on all plans. The location of any threatened species, endangered populations or ecological communities must also be marked on all plans.
- 23 All nest boxes are to be erected prior to the issue of a Construction Certificate and at least one month prior to vegetation clearance on the site.

Vegetation Management and Rehabilitation Protocols

- 24 The management protocols and requirements within these conditions relating to tree and vegetation retention, protection and rehabilitation are to be included in all contract documentation, plans and specifications used by each civil contractor and sub-contractors prior to issue of a Construction Certificate.

Landscape Plan

- 25 The Landscape Plan is to be amended prior to issue of a Construction Certificate to include reference to the following changes:
- i. The landscaping at the front of Pacific Highway extend from car parking bays to the edge of the footpath except for one grass feature as per the landscape plan. All trees, shrubs and ground covers are to be as per the landscape list.
 - ii. All trees being codes Bin, Cma, Can, Eha, LN, Lau are to be a minimum 100 litre.

- iii. Additional mature trees to provide appropriate additional shade cover, particularly in the car parking area, such trees to be provided at a minimum rate of one (1) tree per six (6) parking bays. In this regard, an amended landscape plan is to be submitted to the Council for its consideration and approval in satisfaction of this condition prior to the issuing of a Construction Certificate.
- iv. All shrubs are to be minimum 25 litres
- v. PN (*Pennisetum alopecuroides*) is to be removed from the list and replaced with other grasses within the landscape plan.
- vi. All areas mooted for mass planting per the proposed plant schedule are to be mulched to a minimum depth of 100mm.
- vii. The row of *Tristanopsis* 'Luscious' that are proposed on the boundary along the Pacific highway are to be replaced with *Callistemon salignus*.
- viii. A kerb is to be placed on the eastern edge of the grasscrete to ensure the planting of Sir Walter buffalo doesn't escape into the riparian buffer area. The maintenance of this area is to be included into the maintenance schedule.
- ix. The riparian area has several *Pinus radiata* that are not endemic to the area. It is recommended that these trees are removed in conjunction with the mass planting as per the VMP to minimise spread into the area zoned 7a conservation.
- x. For the area containing the proposed batters and retaining walls along Pacific Highway and Tall Timbers Road frontages (as shown in civil plan DA01), planting of a combination of the following types of species of small trees and grasses:

- Tree species

- *Elaeocarpus eumundi*,
- *Elaeocarpus reticulatus*,
- *Acmenia smithii* and/or *Syzygium australe*.

All trees to be planted in a combination of the ones listed above and the trees are to be planted in the middle of the batter to provide the best opportunity for growth in a small area. All trees to be a minimum (50 litre) and comply with NATSPEC regulations.

- Grasses/Shrubs

- *Lomandra tanika/longifolia*,
- *Doryanthes excelsa*,
- *Scaevola aemula*,
- *Hibergia*,
- *Hibergia scandens*

All grasses where feasible to be provenance stock.

- xi. The following species are to be planted at the front of the batter to enable the species to climb and soften the rock wall over time:
 - *Scaevola aemula*,
 - *Hibergia*,
 - *Hibergia scandens*

Pylon sign

- 26 The height of the freestanding pylon signs is not to exceed 7 metres in accordance with DCP Chapter 50. The plans are to be amended to include this height reduction.
- 27 The signage panel for the 'Liquor' shop is to be deleted from the plans (this includes any reference on the signage and elevation plans). The plans are to be amended prior to issue of a Construction Certificate.

Mine subsidence

- 28 The final drawings to be submitted prior to issue of a Construction Certificate, contain a certification by a qualified structural engineer, to the effect that any improvement constructed to meet the specifications of such final drawings will be safe, serviceable and repairable taking into account the following mine subsidence parameters:

- a) Maximum ground strains of $\pm 3\text{mm/m}$
- b) Maximum tilt of 4mm/m

The improvement to be fully articulated taking into consideration the subsidence parameters and other site conditions. The location and detailing of articulation joints are to be shown clearly on the final plans.

Public Artwork – Compliance Requirements

- 29 Prior to the issue of a Construction Certificate the applicant is to prepare a public art masterplan incorporating a final design concept for public art work/s in consultation with Council's Cultural Planner that provides public art as part of the development at the applicant's cost. The public art work/s shall be planned for, designed, approved and implemented in accordance with the provisions of Council's DCP Chapter 112 for Public Art.

Food Act Requirements

- 30 Prior to the issue of a Construction Certificate, detailed plans and specifications for the food handling areas are to be submitted to and approved by Council's Environmental Health Officer- Food.

Bicycle Facilities

- 31 The plans are to clearly indicate the provision of showers, change rooms and lockers for staff and the provision of bicycle parking in appropriate and well lit and sheltered locations for staff and visitors in accordance with DCP Chapter 114 prior to the issue of a Construction Certificate.

Prior to Commencement of Works:

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

Demolition Requirements

- 32 Prior to the demolition of existing structures on site, all existing site services are to be disconnected, sealed and made safe. The sewer and water service is to be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector certifying that the works have been undertaken to the satisfaction of Council as the Water and Sewer Authority. Thiess Service's Customer Service Centre are also to be contacted on telephone number 1300 126 278 to arrange for the collection of the garbage bins.

Erosion and Sediment Control Requirements

- 33 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.
- 34 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.

Site Requirements

- 35 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.
- 36 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.

- 37 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.

Protection of Adjoining Property Requirements

- 38 Prior to works associated with the development commencing, the applicant must supply the Principal Certifying Authority with a dilapidation report for the adjoining properties, which documents and photographs the condition of buildings and other improvements. The report must be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works. **Note:** The report is to be made available by the Principal Certifying Authority in any private dispute between neighbours regarding damage arising from construction works upon the development site.

Roads - Preconstruction Requirements

- 39 Prior to commencing any works upon public roads the developer and their contractor will be required to:
- Obtain a copy of the Council approved Civil Works plans and pavement design (if applicable).
 - Obtain a copy of Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development*. This is Council's Specification for Civil Works and is available on Council's web site.
 - Arrange a meeting on-site with Council's Principal Development Construction Engineer on (02) 4350 5555.
- 40 Prior to works associated with the development commencing, a Plan of Management is to be submitted to and approved by Council as the Roads Authority for any works or deliveries that impact on any public roads or public land as a result of the construction of the development. The plan must include a Traffic Control Plan prepared by a person holding Roads and Traffic Authority (RTA) accreditation for selecting and modifying traffic control plans. Fees and charges are applicable to the review and approval of the required management plan in accordance with Council's Plan of Management.

- 41 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

- 42 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.

Tree Protection Measures

- 43 Trees and vegetation within the 7 (a) Conservation Zone are to be protected by the erection of 1.8 metre-high man-proof fencing as per the consulting arborist and ecologist's direction and maintained in good working order for the duration of the works.
- 44 All fenced tree protection areas and are to be clearly marked as "No Go Area" on all final approved engineering plans.
- 45 All fenced tree protection areas and are to be clearly marked as "No Go Area" on the fencing itself. No clearing of vegetation or storage of vehicles, fill or materials or access is to occur within No Go Areas.

Vegetation Management and Rehabilitation Protocols

- 46 The management protocols and requirements within these conditions relating to tree and vegetation retention, protection and rehabilitation are to be included in all contract documentation, plans and specifications used by each civil contractor and sub-contractors.

Tree Removal

- 47 Trees marked in red on the approved plans and any other trees not specifically indicated for removal on the approved plans, are to be retained and not felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed. Trees within an access way or driveway approved as part of this consent can be removed, unless the approved plan or conditions of consent show otherwise.

Flora and Fauna

- 48 The ameliorative measures and mitigative recommendations contained within Section 7 of the Flora Fauna and Threatened Species Assessment prepared by ecobiological and dated March 2011 are to be carried out as part of the development including the preparation of an Environmental Management Plan for the site, except as otherwise conditioned.

Waste Management

- 49 A detailed Waste Management Plan is to be prepared for the development that addresses the mitigation measures and other matters outlined in the submitted Waste Minimisation and Management Plan dated May 2011.

The development is to be carried out with the submitted and future Waste Management Plans and during the construction phase of the development, all building materials must be re-used, recycled or disposed of in accordance with the Waste Management Plan submitted with the subject application.

During Construction Works:

The following conditions must be satisfied during construction works.

Approved Plans

- 50 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

- 51 All materials other than fill imported to the site for civil works, shall have a resource recovery exemption made under the Protection of the Environment Operations (Waste) Regulation 2005.
- 52 All site fill material shall be classified as Virgin Excavated Natural Material (VENM) or Excavated Natural Earth (ENM) in accordance with the Waste Classification Guidelines – Part 1: Classifying Waste published by the Department of Environment, Climate Change and Water NSW (now Office of Environment and Heritage). Site fill material shall be certified as VENM or ENM by a practising Geotechnical Engineer prior to haulage to site. Certification documentation shall be provided to the Principal Certifying Authority throughout the construction phase of the works.

Erosion and Sediment Control - Construction Requirements

- 53 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*.

Services/Utility Requirements

- 54 The developer is solely responsible for any costs relating to alterations and extensions of existing roads, drainage, water and sewer infrastructure and other utilities for the proposed development.
- 55 Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:

- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
- AGL Sydney Limited for any change or alteration to gas line infrastructure;
- Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
- Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

Site Requirements

- 56 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.
- 57 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.
- 58 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.

Demolition - Compliance Requirements

- 59 Any demolition work carried out with respect to the development is to be carried out in accordance with the requirements of AS 2601-2001 – *The Demolition of Structures*.
- 60 The disposal of any asbestos materials must be in accordance with the requirements of WorkCover NSW and AS 2601-2001 – *The Demolition of Structures*. The asbestos materials are to be disposed of at an approved waste management facility in accordance with the procedures the facility has for the disposal of asbestos. Upon completion of these works, the Principal Certifying Authority is to be supplied with disposal receipts within seven (7) days to verify that this requirement has been complied with.

Plumbing and Drainage - Construction Requirements

- 61 Council as the Water Supply Authority, under the provisions of the Water Management Act, 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.

Silencing Devices

- 62 Sound attenuating devices shall be provided and maintained in respect of all power operated plant used during demolition, earthworks, and the erection of the structure. The quietest available plant should be used and be regularly maintained and fitted with appropriate mufflers.

Flora and Fauna Management Protocols

- 63 During all works on the site, the following management protocols and measures are to be adopted as part of the development:
- a. The mulch/tubgrindings generated from the removal and thinning of native trees associated with the development is/are to be re-used in restoring the 7 (a) Conservation Zone as required.
 - b. Any natural hollows removed by the development are to be placed wherever possible as ground hollows within the 7(a) Conservation Zone under the supervision of the consulting ecologist.
 - c. Any plant stock used in revegetation will be supplied from provenance specific seed/material collected from within the Tuggerah Lakes catchment area. Non-provenance specific material is prohibited.
 - d. Nest boxes are to be provided on a one for one basis for any natural hollow removed by the development and are to be constructed of appropriate durable materials (i.e. marine ply). All nest boxes are to be erected prior to the issue of a Construction Certificate and at least one month prior to vegetation clearance on the site. Nest boxes are to be constructed of a range of sizes in order to provide potential habitat for a range of species i.e. Microchiropteran bat species, Squirrel Glider). The monitoring of nest boxes to determine their usage and to carry out repairs or replacement (as required) every six (6) months for a minimum period of three (3) years following erection. Monitoring reports are to be forwarded to Council after each monitoring event.

Tree removal

- 64 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.

Ecological Protection

- 65 Council's Development Ecologist is to be notified as soon as practicable (and not more than 24 hours after) if a breach of these ecological protection conditions occurs.

Fauna and clearing – Ecologist supervision

- 66 Native fauna must be appropriately managed during clearing and construction phases of the approved works. In this regard, an appropriately licensed fauna ecologist is to be employed to advise and supervise the clearing of trees. Where, in spite of precautions, wildlife is injured, the fauna ecologist is to take the necessary action to treat the animal, which may include veterinary treatment or transfer of the animal to a volunteer wildlife carer group such as W.I.R.E.S or Wildlife Arc.

Security and Lighting Plan

- 67 To ensure appropriate public safety and surveillance measures on site, a security and lighting plan must be submitted for Council's consideration and approval prior to the issuing of the Construction Certificate. In this regard, the recommendations of the approved plan are to be implemented and maintained throughout the life of the development.

Prior to Release of Occupation Certificate:

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

Building Code of Australia – Compliance Requirements

- 68 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

- 69 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.

Filling and Haulage- Completion Requirements

- 70 All filled areas are to be compacted in accordance with the requirements of AS 3798-1996. The submission of test results and appropriate documentation attesting to this requirement having been achieved is to be provided for the approval of the Accredited Certifier prior to issue of the Occupation/Subdivision Certificate.

Liquid Trade Waste – Requirements

- 71 After the trade waste facility has been constructed, an "Application for final inspection of a new Liquid Trade Waste Facility" must be submitted to Council as the Water and Sewer Authority. Council's final approval for the liquid trade waste facility is required prior to the issue of the Occupation Certificate.

Other Authorities – Compliance Requirements

- 72 Compliance with the general terms of approval of RTA's letter as outlined in its correspondence dated 31/8/2011 as follows:

Pacific Highway / Tall Timbers Road intersection

Traffic control signals, associated civil works and roadmarking shall be designed and constructed to upgrade the Pacific Highway / Tall Timbers Road intersection. These works are to be designed to RTA requirements and shall include, but not be limited to, the following:

Pacific Highway (Eastern leg)

- The right turn bay into Tall Timbers Road is to be extended to a minimum length of 130metres (excluding taper)
- Concrete paths are to be constructed from the development site to the pedestrian crossings at the traffic control signals at the intersection of the Pacific Highway and Tall Timbers Road.
- A deceleration lane into the development is to be constructed to a distance of 85 metres (including taper) west of the proposed ingress location.
- An acceleration lane is to be constructed from the proposed egress location a distance of 220 metres (including taper) east on the Pacific Highway, unless otherwise agreed to in writing by the RTA and Council.
- Until Stage 2 of the VPA is fully enacted the cycleway is to remain on road. Particular attention is to be given to the conflict points with both the proposed deceleration lane and the proposed acceleration lane on the Pacific Highway.

Whole Intersection

The modifications detailed above will require the reconstruction of the traffic control signals. This reconstruction is to be designed in accordance with RTA requirements and is to include but not limited to the following design principles:

- Kerb and gutter and raised median island kerbs shall be provided where required.
- The intersection shall be designed to accommodate the largest design vehicle nominated in the application.
- Provision shall be made for cyclists on all approaches at the intersection and along the length of the proposed works.
- All traffic lanes shall be 3.5 metres in width or as determined by the RTA.
- Street lighting shall be provided at the intersection in accordance with Australian Standard AS 1158.

- Any road widening / property acquisition / dedication required shall be provided at no cost to the RTA or Council. This would include any plans of subdivision and associated survey / legal costs. The property required is to be designated as public road reserve in favour of Wyong Shire Council.
- All works associated with the proposed development shall be at full cost to the applicant and at no cost to the RTA or Council.
- As part of the access construction the developer shall apply for, and obtain a Road Occupancy Licence (ROL) from the RTA Traffic Operations Unit (TOU) prior to commencing work within the classified road reserve or within 100m of traffic signals.

The application will require a Construction Traffic Management Plan (CTMP) to be prepared by a person who is certified to prepare Construction Traffic Management Plans. Should the CTMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU. The developer shall submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependant upon the RTA receiving an accurate and compliant TMP. *Note: An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by the RTA Project Manager.* The Construction Traffic Management Plan (CTMP) shall be prepared and include a Vehicle Movement Plan and Traffic Control Plan. It shall be prepared with the intention of causing minimal impact to the operation of the road network during construction. The CTMP shall be submitted to the RTA and Council for review and approval prior to any construction activities occurring onsite.

- As road works are required on a State road, and traffic control signals, the RTA will require the developer to enter into a Works Authorisation Deed (WAD) with the RTA. In this regard the developer is required to submit concept and detailed design plans and all relevant additional information, as may be required in the RTA's WAD documentation, for each specific change to the classified (State) road network and / or any traffic control signals for the RTA's assessment and final decision concerning the work.

Comment: It is requested that the developer be advised that the conditions of approval do not guarantee the RTA's final consent to the specific road work, traffic control facilities and other structures works, for which it is responsible, on the road network. The RTA must provide a final consent for each specific change to the classified (State) road network and / or any traffic control signals prior to the commencement of any work.

- The WAD shall be executed prior to granting a Construction Certificate for the proposed development.
- All road works under the WAD shall be completed prior to issuing an Occupation Certificate for any lot on which development may occur.

Please note that the WAD process, including acceptance of design documentation and construction, can take a considerable amount of time. The developer should be aware of this and allow sufficient lead time within the project development program to accommodate this process. It is therefore suggested that the developer work through the process as soon as possible with the RTA.

Miscellaneous Issues

- Appropriate site works are to be constructed across the access driveway frontage so as to comply with the minimum sight distance requirements and minimum sight lines for pedestrian safety set out in the RTA publication "Guide to Traffic Generating Developments" (1993) and AS/NZS 2890.1:2004 Part I: "Off-Street Car Parking".

Roads – Compliance Requirements

- 73 All road signage and pavement marking works must be completed in accordance with the plans approved by the Local Traffic Committee and approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.
- 74 The provision of any additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development works are to be approved by Council as the Roads Authority prior to issue of the Occupation Certificate.
- 75 All works within Tall Timbers Road must be completed in accordance with the approved Civil Works design drawings and Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development* and be approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.
- 76 All road works and/or traffic control facilities within a state road must be completed in accordance with the approved Civil Works design drawings and RTA Works Authorisation Deed, and be jointly approved by Council as the Roads Authority and the RTA prior to the issue of any Occupation Certificate.
- 77 The submission to the Council as the Roads Authority of certification from an Accredited Service Provider (ASP) that the street lighting installation has been completed in accordance with AS/NZS 1158 and AS 4282-1997, the approved design drawings and will achieve a minimum of twenty (20) year design life. The certification must be received by Council prior to the issue of the Occupation Certificate.
- 78 The submission to the Council as the Roads Authority of a 'pre-opening stage' Road Safety Audit for all road works prepared by a Level 3 Road Safety Auditor recognised on the NSW Register of Road Safety Auditors. Any deficiencies identified within the audit must be resolved in consultation with Council and the RTA prior to the approval of the works.

Stormwater – Compliance Requirements

- 79 The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2004. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.
- 80 The construction of stormwater drainage works external to the site and discharging into a public system or public land in accordance with the approved Stormwater Management Plan and Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development*. All works must be approved by Council under Section 68 of the Local Government Act 1993 prior to issue of the Occupation Certificate. All other stormwater management works must be approved by the Principal Certifying Authority.
- 81 The registration of a drainage easement in favour of, and at no cost to, Council over land containing road stormwater drainage infrastructure.
- 82 Prior to the issue of the final Occupation Certificate, a 'Positive Covenant' shall be created on the title of the land requiring the registered proprietor to ensure the continued maintenance and performance of the stormwater management system in accordance with the operation and maintenance manual. The terms of the positive covenant are to be prepared to Council's standard requirements. Wyong Shire Council shall be nominated as the party to release, vary or modify the covenant.

Vehicle Access and Parking – Compliance Requirements

- 83 The construction of the carpark and accesses in accordance with AS/NZS 2890 - Parts 1, 2 and 6. Certification of the construction of the carpark and associated accesses by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Water and Sewer Services/Infrastructure – Compliance Requirements

- 84 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.

Work as Executed Requirements

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

Waste Management Requirements

- 86 For safety, amenity and maintenance reasons, the waste storage area must be constructed to the following standards prior to the issue of an Occupation Certificate:
- Floors must be constructed of concrete, graded and drained to an approved drainage outlet connected to the sewer and finished to a smooth even trowelled surface;
 - Walls must be constructed with solid impervious material and shall be cement rendered internally to a smooth even steel trowelled surface;
 - All intersections between the walls and floors shall be coved with coving having a minimum radius of 25mm;
 - All entry points into the room must be bunded to prevent the escape of liquid waste. Bunding shall be for 110% of the likely liquid storage waste and constructed in such a manner that does not obstruct the removal of waste receptacles from the room or create a safety risk to users;
 - Adequate ventilation shall be provided;
 - Adequate lighting shall be provided;
 - The ceiling must have a minimum height of 2.1 metres from floor level and be finished with a smooth faced non-absorbent material capable of being easily cleaned;
 - Waste storage areas shall prevent the access of vermin;
 - Waste receptacles used shall be compatible with Wyong Council's waste collection service;
 - The door to the storage area shall be weatherproof and shall be openable from the inside at all times; and
 - Hot and cold water hose cocks shall be located inside or within close proximity to the waste storage areas to facilitate cleaning.

Noise Control Requirements

- 87 Prior to the issue of the Occupation Certificate, all noise control measures identified for mechanical plant, loading dock and overall site as outlined in the summary of recommended noise control measures in the acoustic report prepared by Reverb Acoustics (Titled: Noise Impact Assessment Proposed Village Centre Corner Pacific Highway and Tall Timbers Rd Lake Munmorah NSW May 2011, report No: 11-1558-R2", report number 11-1558-R2 dated May 2011) are to be satisfactorily completed and implemented within the building.

Public Artwork – Compliance Requirements

- 88 Prior to the issue of an **Occupation Certificate**, the public artwork is to be constructed and/or installed in accordance with Wyong Development Control Plan 2005 Chapter 112 – *Public Art* and this is to include a certificate of completion being signed by the artist and this certificate being submitted to Council.

Food Act Requirements

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

Bicycle Parking

- 93 To encourage the use of alternate transport modes, secure bicycle parking/storage must be provided in close proximity to the building entrances and be highly visible and well illuminated to minimise the likelihood of theft and vandalism. The installation and dimensions of the facility shall be in accordance with AS2890.3-1993 – Parking Facilities – Bicycle Parking Facilities/Guide to Traffic Engineering Practice – Bicycles, Part 14 – Austroads. These works must be completed prior to the issue of an Occupation Certificate.

Landscaping Requirements

- 94 Prior to the issue of an Occupation Certificate, to ensure landscaping works are properly completed, the landscape designer must provide certification to the Principal Certifying Authority certifying that landscaping has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent.

Sewer line and VMP

- 95 The area of the proposed sewer line easement shall be rehabilitated according to the method and objectives as outlined in the Vegetation Management Plan. In accordance with correspondence from EcoBiological dated 1/8/11 that the management options proposed be incorporated into the Vegetation Management Plan.

Disabled Access Requirements

- 96 Prior to the issue of an Occupation Certificate, access to and throughout the buildings shall comply with AS 1428.1-2009 and the objectives of the *Disability Discrimination Act 1992* (Commonwealth). Certification is to be provided by a suitably qualified and experienced consultant.

Ongoing Operation:

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

Stormwater – Ongoing Maintenance Requirements

- 97 Sign(s) being displayed and maintained adjacent to all stormwater drains on the premises, clearly indicating 'Clean water only – No wastewater or rubbish'.
- 98 All stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective.

Vehicle Access and Parking – Ongoing Requirements

- 99 The pavement and pavement marking must be maintained in a serviceable condition.
- 100 Garbage/recycling bins must not be permitted to encroach with the carpark or vehicle manoeuvring areas.

Noise Control Requirements

- 101 Twelve (12) months after the issue date of the occupation certificate an acoustic assessment is to be undertaken to determine whether the recommended acoustic devices are attenuating all noise sources in a manner which is compliant with the Protection of the Environment Operations Act 1997.
- 102 To ensure reasonable acoustic amenity for surrounding properties is maintained, all recommendations made in the acoustic report prepared by add Reverb Acoustics dated May 2011 accompanying the application must be complied with.
- 103 Any security alarm installed on the premises must be fitted with a 'cut-off' device limiting any sounding of the alarm to a maximum duration of ten (10) minutes, with no repeat sounding until manually reset; and or 'silently wired' to a security firm.

Waste

- 104 All waste generated on the premise shall be stored in a manner so that it does not pollute the environment.
- 105 All waste generated on the premise shall be transported to a facility which is licensed to receive that material.

Landscaping Requirements

- 106 The general landscape maintenance program as per the landscape plan provided by habitation is to be endorsed with the landscape contractor to attend the site on a weekly basis for a period of no less than 52 weeks.

Ecology/Tree Requirements

- 107 The riparian area has several *Pinus radiata* that are not endemic to the area. It is recommended that these trees are removed in conjunction with the mass planting as per the VMP to minimise spread into the area zoned 7a conservation.

Vegetation Management Plan

- 108 The implementation of the actions proposed in the Vegetation Management Plan (Ecobiological 2011) to: monitor all known and potential threatened species on site; control noxious and exotic weed species; to employ rehabilitation and compensatory plantings; to mitigate any edge effects; to improve the overall ecological value of vegetation and fauna habitat on site; to minimise the environmental impact of the proposal; to provide management of any retained vegetation and to monitor fauna species use of the subject site during all stages of development.

Medical Centre

- 109 The medical centre is limited to a maximum of 6 staff and 5 surgeries unless further development consent is obtained.

Waste Management

- 110 No receptacles for any form of rubbish or refuse (other than public waste bins) may be placed or allowed to remain in view from a public road or thoroughfare and odour must not be emitted from any such receptacle(s) so as to cause offence to any person(s) outside the subject land.

Safer by Design

- 111 To minimise the opportunity for crime and in accordance with CPTED principles, the development shall be carried out in accordance with the submitted CPTED report and incorporating the following:
- i. In order to maintain a safe level of visibility for pedestrians within and around the development, adequate lighting to AS1158 is to be provided to all common areas including parking, and any pedestrian routes to these areas. All lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties.
 - ii The means to isolate the various areas of the site shall be incorporated into the development, including measures for after hours access.
 - iii Anti-graffiti paint to external vertical surfaces.

- iv. Ensure the development management adopts an ongoing policy of rapid repair of vandalism and graffiti and ensuring that all lighting is in working order.
- v. Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.

Ecological – Nest Boxes

- 112 Nest boxes are to be constructed of a range of sizes in order to provide potential habitat for a range of species i.e. Microchiropteran bat species, Squirrel Glider). The monitoring of nest boxes to determine their usage and to carry out repairs or replacement (as required) every six (6) months for a minimum period of three (3) years following erection. Monitoring reports are to be forwarded to Council after each monitoring event.

Hours of Operation Requirements

- 113 For the purposes of preserving the amenity of neighbouring occupants and residents, hours of **operation for the shopping centre** are restricted to between:

7:00am and 12 midnight each day

Amenity Noise

- 114 No sound amplification equipment, juke boxes or loudspeakers shall be used for the purpose of announcements, broadcasts, playing of music (whether recorded or otherwise) or similar purposes (so as to be audible on adjoining public or private land) save with the written permission of the Responsible Authority. Noise emissions must comply with EPA and the relevant State/Regional/Local Environment Planning Policy requirements.
- 115 The use shall not cause unreasonable noise or interference to adjoining residences. The occupier shall take all necessary steps to ensure that no noise or other disturbance emanates from the premises which would be likely to cause a nuisance to the adjoining occupiers or a detriment to the amenity of the neighbourhood. Special precautions must be taken to avoid nuisance from warning sirens, intruder alarms, public address systems, heavy-duty compressors and the like.

Advertising Signs

- 116 No advertisement shall be erected on or in conjunction with the use and/or development without prior development consent unless the advertisement is an 'approved sign' under Development Control Plan 2005, Chapter 50 - Advertising Signs.

External Colours/Finishes Requirements

- 117 Prior to the issue of an Occupation Certificate, the completed development must comply with the schedule of external colours and materials submitted with the application and as shown on the materials board/model/photomontage.
- 118 The external finish must be maintained in good order at all times.

Bushfire Protection

- 119 The development is to be carried out in accordance with the submitted Bushfire Threat Assessment (Ref.179-794) prepared by Ecobiological and dated 13.5.11 particularly the recommendations under Section 3 of the report.

Loading Dock Operations

- 120 To ensure the amenity of surrounding occupants, deliveries to and from the site including waste collection must only take place between the following times: -

7.00am and 10.00pm each day

A sign shall be placed in a prominent place within each loading area, stating that the loading docks are only open at the above times.

In this regard, the use of the loading dock shall be restricted to the hours above for a minimum of 6 months after the issue of the occupational certificate and until such a time, where an acoustic survey can demonstrate that the operation/use of the loading dock will not unreasonably impact the surrounding community.

- 121 All loading and unloading of goods is to be conducted wholly within the site within the loading facilities, internal dock or goods handling area. These areas are to be maintained free of obstruction (when not in use) for the sole use of delivery vehicles. Under no circumstances are loading/unloading activities to be conducted from vehicles standing kerbside in the street.
- 122 No overnight truck parking shall be permitted inside the loading areas.
- 123 No public address system shall be used in side the loading areas, except for emergency fire evacuation.
- 124 A sign shall be erected and be prominently displayed within the loading areas stating 'The loading dock is within hearing distance of people's homes. Please make as little noise as possible.'
- 125 All business operators shall ensure that all drivers under its control or driver's who work as contractors or suppliers, who are instructed to make deliveries, or are likely to make such deliveries shall be provided with a copy of the transport delivery arrangement plan.
- 126 All business operators shall instruct their employees, contractors and/or agents to observe care in the use and control of equipment (including shopping trolleys) in the loading dock and access areas so as to not cause or allow to be caused any unreasonable noise during the hours of operation of the loading dock and access areas.
- 127 A transport delivery arrangement plan is to be prepared identifying the restrictions and delivery constraints to be imposed upon all carrier agencies delivering to the supermarket tenancy. This shall include maximum truck size, delivery hours, types/frequencies of deliveries, driver conduct, loading dock management protocols, complaint management procedures, responsibilities for transport manager and store manager and incorporate the restrictions imposed

under condition Nos. ***. The provisions of the plan shall be implemented at all times during the operation of the development approval under this consent.

Security Requirements

- 128 Prior to issue of the Occupation Certificate, the developer must install a system of CCTV of a type and in locations on the site that will provide high-quality images of all public areas within the site.

Advertising Sign Requirements

- 129 The proposed advertising sign/s erected shall be in accordance with the approved plans and shall not be altered or modified without the prior separate consent of Council.
- 130 The approved advertising sign/s must be constructed and maintained in a presentable and satisfactory state of repair for the life of the development.
- 131 No advertising sign/s shall be erected on or in conjunction with the use and/or development without prior development consent unless the advertisement is an 'approved sign' under Development Control Plan 2005, Chapter 50 - *Advertising Signs*.

Screening of rooftop plant/structures

- 132 Any rooftop or exposed structures including plant and equipment, air conditioning, ventilation and exhaust systems, are to be suitably screened and integrated with the building in order to ensure a properly integrated overall appearance.

Trolley management strategy

- 133 The development is to adopt management measures for the shopping trolleys to ensure that trolleys are not removed off the site and left unattended within the surrounding areas.

Other Requirements

- ~~134 A regular shuttle bus service shall be provided by the owner/operator consistent with Council's DCP, to provide services to and from surrounding residential areas (which may be complementary to other community bus services). DELETED~~
- 135 The applicant shall establish a resident liaison committee and meet regularly with resident groups during construction.

3.2 DA 802/2011 - Alterations and Additions and a Detached Secondary Dwelling at Berkeley Vale

TRIM REFERENCE: DA/802/2011 - D02975003

MANAGER: Jamie Loader; Manager Building Certification and Health

AUTHOR: Scott Rathgen; Team Coordinator

SUMMARY

An application has been received for demolition of an existing detached laundry, alterations and additions to the existing dwelling, a carport 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 Act) 1979, the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Lakaz Designs
Owner	Ms Marie El Khoury
Application No	DA/802/2011
Description of Land	Lot 370 DP 30187, No 52 Gladys Ave Berkeley Vale
Proposed Development	Demolition of an existing detached laundry, alterations and additions to the existing dwelling, a carport and a detached secondary dwelling.
Site Area	550.6m ²
Zoning	2A Residential
Existing Use	Residential
Estimated Value	\$62,000

RECOMMENDATION

- 1 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, and subject to the conditions detailed in the schedule attached to the report.**
- 2 That Council advise those who made written submissions of its decision.**

PRECIS

- An application has been received for demolition of an existing detached laundry, alterations and additions to the existing dwelling, a carport and a detached secondary dwelling.
- The site is zoned 2(a) Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP).

3.2 DA 802/2011 - Alterations and Additions and a Detached Secondary Dwelling at Berkeley Vale (contd)

- The primary dwelling complies with Development Control Plan (DCP) 2005, Chapter 99 Building Lines and Chapter 100 Quality Housing.
- Additions to the primary dwelling provides for the construction of an internal stair to connect the ground and first floor.
- The secondary dwelling complies with the schedule of development standards of Part 2- Division 2 and Schedule 1 – Development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009

INTRODUCTION

The Site

The primary dwelling is 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) which states:

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

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

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

AGAINST: NIL”

3.2 DA 802/2011 - Alterations and Additions and a Detached Secondary Dwelling at Berkeley Vale (contd)

The approval of the alterations and additions to the existing dwelling and secondary dwelling will 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 Council's DCP 2005 or the development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009.

HISTORY

A timber clad two storey dwelling with detached laundry currently stands on the site. The laundry is proposed to be demolished as part of the application.

In May 2011, Council received representations that the dwelling had been illegally converted into two separate occupancies. Consequently Council's Compliance Officer undertook an inspection of the property which revealed that works had been undertaken including the installation of cooking facilities and erection of internal walls to create 3 additional rooms to facilitate a separate domicile on the lower level.

Council commenced action requiring the removal of the illegal kitchen facilities and required that the owner seek to regularise the remaining unauthorised construction via the submission of a Section 149D Building Certificate application. The owner has complied with Council's request and Council officers have visited the property and confirmed that the kitchen has been removed.

The determination of the building certificate for the remainder of the unauthorised building works has been held in abeyance subject to determination of the current application and construction of the proposed internal stair to the existing dwelling.

PERMISSIBILITY

The subject site is zoned 2(a) Residential zone under the WLEP 1991. The proposed dwelling alterations 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.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- SEPP (Affordable Rental Housing) 2009
- WLEP 1991
- Wyong Council DCP Chapters 99 & 100

3.2 DA 802/2011 - Alterations and Additions and a Detached Secondary Dwelling at Berkeley Vale (contd)

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

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

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 1979 and the SEPP (Affordable Rental Housing) 2009, statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

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

Wyong Local Environmental Plan 1991

The property is zoned 2(a) Residential zone.

The alterations and additions to the existing dwelling are permissible under the provisions of WLEP and meet the objectives of the zone. The secondary dwelling is proposed under the provisions of SEPP (Affordable Rental Housing) 2009 which overrides any provisions contained with the WLEP.

State Environmental Planning Policy (Affordable Rental Housing) 2009

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

The provisions of Clause 23 of the SEPP require compliance with the development standards set out in Schedule 1 of the SEPP which are provided as an attachment.

Under these circumstances the proposed secondary dwelling is considered justified.

3.2 DA 802/2011 - Alterations and Additions and a Detached Secondary Dwelling at Berkeley Vale (contd)

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 of Berkeley Vale. 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 provided by an existing driveway which traverses the adjacent road reserve in Jeannie Crescent, Berkeley Vale.

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

Any effect on privacy, view loss and overshadowing

An assessment of potential overlooking, privacy and view sharing has been undertaken and it is concluded that the construction of the alterations and additions and secondary dwelling is not detrimental to the adjoining properties.

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.

Any effect on the flora and fauna.

The proposal does not effect flora and fauna.

The provision of waste facilities.

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

3.2 DA 802/2011 - Alterations and Additions and a Detached Secondary Dwelling at Berkeley Vale (contd)

Whether the development will be energy efficient.

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

Whether the development will cause noise and vibration.

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

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

There are no risks from natural hazards applicable to this proposal.

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

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

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

Whether the proposal fits in the locality.

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

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

It is considered the effect on the environment will be minimal and the proposed dwellings will 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 four submissions being received. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979. A summary of the submissions is detailed in the table below.

3.2 DA 802/2011 - Alterations and Additions and a Detached Secondary Dwelling at Berkeley Vale (contd)

Doc. No	Summary of Issues	Response
D02795510	<ul style="list-style-type: none"> • The existing dwelling has been converted to a Dual Occupancy development. • Increase in noise. • Increase in traffic. 	<ul style="list-style-type: none"> • The situation with the illegal conversion of the primary dwelling has been investigated and resolved by Council. The development is therefore not being assessed against the provisions of Chapter 58 Dual Occupancy. • There would not be any increase in noise beyond that of a normal dwelling on the property. The development is permissible under the SEPP without any specific criteria for noise assessment. • Council's development engineer has advised that the assessment provided by the applicant is correct in as far as its description and regarding traffic flows. The secondary dwelling would result in an increase in traffic volumes, however this is not a restriction under the SEPP.

3.2 DA 802/2011 - Alterations and Additions and a Detached Secondary Dwelling at Berkeley Vale (contd)

Doc. No	Summary of Issues	Response
D02911170	<ul style="list-style-type: none"> • Insufficient parking. • The existing dwelling has been converted to a Dual Occupancy development. • Site Analysis. • Incorrect traffic flow data. • Unsafe vehicular access to the property. • Insufficient private open space. • Clothes drying area. 	<ul style="list-style-type: none"> • The SEPP (Affordable Rental Housing) 2009 does not require additional parking for vehicles associated with the secondary dwelling, visa vie S22(4)(b). • The situation with the illegal conversion of the primary dwelling has been investigated and resolved by Council. The development is therefore not being assessed against the provisions of Chapter 58 Dual Occupancy. • A site analysis plan was submitted with the application as provided for by DCP Chapter 100. It is noted that DCP Chapter 58 dual Occupancy is not applicable in this instance. • Council's development engineer has advised that the assessment provided by the applicant is correct in as far as its description and regarding traffic flows. The secondary dwelling would result in an increase in traffic volumes, however this is not a restriction under the SEPP. • The private open space complies with the provisions of the SEPP(Affordable Rental Housing) 2009 • The SEPP(Affordable Rental Housing) 2009 does not contain any requirements for clothes drying areas for secondary dwellings.

3.2 DA 802/2011 - Alterations and Additions and a Detached Secondary Dwelling at Berkeley Vale (contd)

Doc. No	Summary of Issues	Response
D02911183	<ul style="list-style-type: none"> • Insufficient parking. • The existing dwelling has been converted to a Dual Occupancy development. • Site Analysis. • Incorrect traffic flow data. • Unsafe vehicular access to the property. • Insufficient private open space. • Clothes drying area. 	<ul style="list-style-type: none"> • The SEPP (Affordable Rental Housing) 2009 does not require additional parking for vehicles associated with the secondary dwelling, visa vie S22(4)(b). • The situation with the illegal conversion of the primary dwelling has been investigated and resolved by Council. The development is therefore not being assessed against the provisions of Chapter 58 Dual Occupancy. • A site analysis plan was submitted with the application as provided for by Council's DCP Chapter 100. It is noted that DCP Chapter 58 dual Occupancy is not applicable in this instance. • Council's development engineer has advised that the assessment provided by the applicant is correct in as far as its description and regarding traffic flows. The secondary dwelling would result in an increase in traffic volumes, however this is not a restriction under the SEPP. • The private open space complies with the provisions of the SEPP(Affordable Rental Housing) 2009 • The SEPP(Affordable Rental Housing) 2009 does not contain any requirements for clothes drying areas for secondary dwellings.
D02788217	<ul style="list-style-type: none"> • The existing dwelling has been converted to a Dual Occupancy development. • Incorrect traffic flow data. • Unsafe vehicular access to the property. 	<ul style="list-style-type: none"> • The situation with the illegal conversion of the primary dwelling has been investigated and resolved by Council. The development is therefore not being assessed against the provisions of Chapter 58 Dual Occupancy. • Council's development engineer has advised that the assessment provided by the applicant is correct in as far as its description and regarding traffic flows. The secondary dwelling would result in an increase in traffic volumes, however this is not a restriction under the SEPP. • The access is existing and is not subject to this application. Regardless sight lines and distances are constant with the requirements for this situation.

3.2 DA 802/2011 - Alterations and Additions and a Detached Secondary Dwelling at Berkeley Vale (contd)

Any submission from public authorities.

There are no submissions from public authorities.

OTHER MATTERS FOR CONSIDERATION

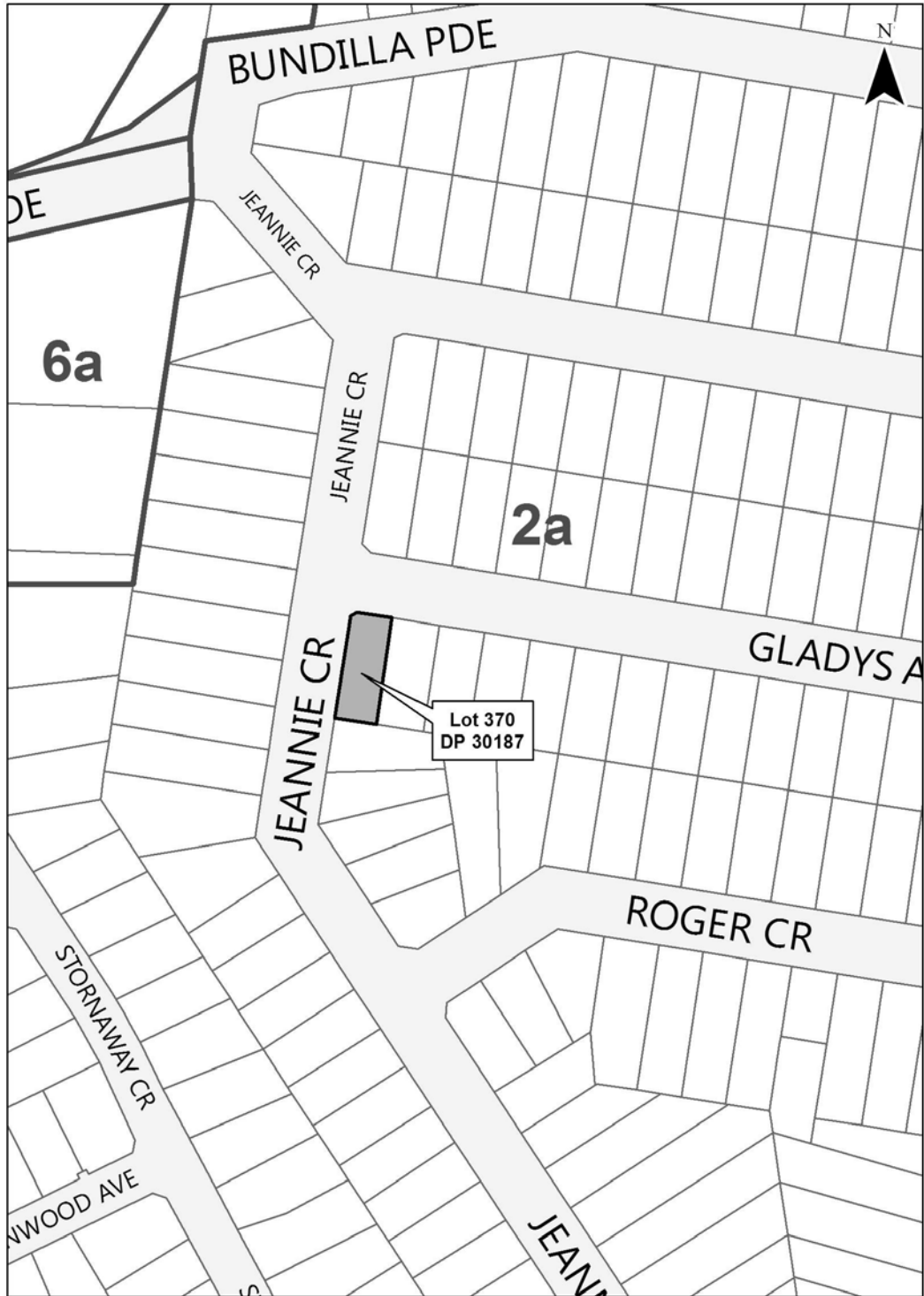
The property is within The Southern Lakes S94 contribution plan created under the provisions of Section 94 of The EP&A Act 1979. Section 94 contributions are applicable to secondary dwellings under this plan as defined under the Affordable Housing SEPP.

Under the contribution plan the secondary dwelling will generate Section 94 contributions totalling \$6309.25.

CONCLUSION

The development application for the demolition of an existing detached laundry, alterations and additions to the existing dwelling and a secondary dwelling meets the standards of the relevant chapters of Council's DCP 2005 and the SEPP (Affordable Rental Housing) 2009. The application is recommended for approval subject to the attached conditions.

Locality Plan



ATTACHMENTS

- | | | |
|---|--|---------------------|
| 1 | Draft Conditions of Consent | D02975176 |
| 2 | SEPP (Affordable Rental Housing) 2009 - Schedule 1 | D02976437 |
| 3 | Development Plans | Enclosure D02986355 |

Date: 16 April 2012
Responsible Officer: John Roseland
Location: 52 Gladys Avenue, BERKELEY VALE NSW 2261
 Lot 370 DP 30187
Owner: Ms M El Khoury
Applicant: Lakaz Designs
Date Of Application: 11 September 2011
Application No: DA/802/2011
Proposed Development: Alterations & additions to create detached secondary dwelling & carport

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
Development Plans	Sheets 1-5	2	June 2011	Lakaz Designs

Prior to Release of Construction Certificate:

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

Contribution Payment Requirements

- 2 Prior to the issue of a Construction Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.
- 3 Prior to the issue of a Construction Certificate, satisfactory structural plans prepared by a suitably qualified Registered Structural Engineer are to be submitted for the approval of the Accredited Certifier, for the following building elements
- Reinforced Concrete and Piers.

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.

Demolition Requirements

- 4 Prior to the demolition of existing structures on site, all existing site services are to be disconnected, sealed and made safe. The sewer and water service is to be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector certifying that the works have been undertaken to the satisfaction of Council as the Water and Sewer Authority. Thiess Service's Customer Service Centre are also to be contacted on telephone number 1300 126 278 to arrange for the collection of the garbage bins.
- 5 Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work, must be undertaken by a person who carries on a business of such removal work in accordance with a licence issued under the provisions of Clause 318 of the *Occupational Health and Safety Regulation 2001*.
 - The person having the benefit of the consent must provide the Principal Certifying Authority with a copy of a signed contract before any development pursuant to the consent commences.
 - Any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed and if so, must specify the landfill site (that may lawfully receive asbestos) to which the material is to be delivered for disposal.

Erosion and Sediment Control Requirements

- 6 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.
- 7 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.
- 8 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.

- 9 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

- 10 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

- 11 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

- 12 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.
- 13 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.
- 14 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.
- 15 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.
- 16 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.
- 17 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.

Prior to Release of Occupation Certificate:

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

BASIX Requirements

- 18 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

- 19 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

- 20 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

- 21 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

- 22 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.
- 23 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%.

- 24 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

- 25 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

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

Ongoing Operation:

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

No Conditions

SCHEDULE OF CONTRIBUTIONS

Shire Wide Cycleway Network	\$249.55
Shire Wide Performing Arts Centre & Public Art	\$281.60
Shire Wide Administration	\$54.00
Southern Lakes District Administration	\$353.55
Shire Wide Regional Open Space	\$121.65
Southern Lakes District Open Space Works	\$2,859.70
Southern Lakes Community Facilities Works	\$2,389.20
Killarney/Berkeley/Tumbi/Chittaway Water DSP	\$1,182.50
Berkeley/Tumbi Sewer DSP	\$1,697.30

SEPP (AFFORDABLE RENTAL HOUSING) 2009 - SCHEDULE 1

SCHEDULE 1 – Development standards for secondary dwellings

Part 1 - Definitions for this Schedule		
<p>"ancillary development" means any of the following that are not exempt development under <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>: an access ramp, an awning, blind or canopy, a balcony, deck, patio, pergola, terrace or verandah that is attached to a principal or secondary dwelling, a carport that is attached to a principal or secondary dwelling, a driveway, pathway or paving, a fence or screen, a garage that is attached to a principal or secondary dwelling, an outbuilding, a rainwater tank that is attached to a principal or secondary dwelling, a retaining wall, a swimming pool or spa pool and child-resistant barrier.</p> <p>"outbuilding" means any of the following that are detached from a principal or secondary dwelling: a balcony, deck, patio, pergola, terrace or verandah, a cabana, cubby house, fernery, shed, gazebo or greenhouse, a carport or garage, a rainwater tank (above ground), a shade structure.</p> <p>A word or expression used in this Schedule has the same meaning as it has in <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> unless it is otherwise defined in this Schedule.</p> <p>In calculating the area of a lot for the purposes of this Schedule, the area of the access laneway is excluded if it is a battle-axe lot.</p>		
Part 2 - Site requirements		
Criteria	Standard	Compliance Y / N / NA
2 - Lot requirements		
(1) Development for the purposes of a secondary dwelling may only be carried out on a lot that:	(a) at the completion of the development will have only one principal dwelling and one secondary dwelling, and	yes
	(b) if it is not a battle-axe lot, has a boundary with a primary road, measured at the building line, of at least the following: <ul style="list-style-type: none"> • 12m, if the lot has an area of at least 450m² but less than 900m², • 15m, if the lot has an area of more than 900m² but less than 1500m², • 18m, if the lot has an area of at least 1500m², and 	compliant
	(c) if it is a battle-axe lot, has an access laneway of at least 3m in width and measuring at least 12m by 12m, excluding the access laneway.	N/A
(2) A lot on which a new secondary dwelling is erected must have lawful access to a public road.		yes
3 Maximum site coverage of all development		
(1) The site coverage of the principal dwelling, secondary dwelling and all ancillary development on a lot must not be more than the following:	(a) 50% of the area of the lot, if the lot has an area of at least 450m ² but less than 900m ² ,	Complies
	(b) 40% of the area of the lot, if the lot has an area of at least 900m ² but less than 1500m ² ,	N/A
	(c) 30% of the area of the lot, if the lot has an area of at least 1500m ² .	N/A
<p>For the purpose of calculating the site coverage in subclause (1), the area of any of the following is not included:</p> <p>an access ramp, that part of an awning, blind or canopy that is outside the outer wall of a building, a balcony, deck, patio, pergola, terrace or verandah attached to the principal or secondary dwelling that is not enclosed by a wall higher than 1.4m above the floor level, an eave, a driveway, a farm building, a fence or screen, a pathway or paving, a rainwater tank that is attached to the principal or secondary dwelling, a swimming pool or spa pool.</p>		

4 Maximum floor area for principal and secondary dwelling		
(1) The floor area of a secondary dwelling must not be more than 60m ² .		complies
(2) The floor area of a principal dwelling, secondary dwelling and any carport, garage, balcony, deck, patio, pergola, terrace or verandah attached to either dwelling and enclosed by a wall (other than the external wall of a dwelling) higher than 1.4 metres above the floor level on a lot must not be more than the following:	(a) 330m ² , if the lot has an area of at least 450m ² but less than 600m ² , (b) 380m ² , if the lot has an area of at least 600m ² but less than 900m ² , (c) 430m ² , if the lot has an area of at least 900m ² . (3) For the purpose of calculating the floor area in subclause (2): "floor area" means the sum of the areas of each storey of each dwelling and each carport, garage, balcony, deck, patio, pergola, terrace or verandah, measured at a height of 1.4 metres above each floor level, where the area is taken to be the area within the outer face of: (a) the external walls of the dwelling, and (b) the walls of the carport, garage, balcony, deck, patio, pergola, terrace or verandah, but excluding any of the following: (c) any part of an awning, blind or canopy that is outside the outer wall of a building, (d) an eave, (e) a lift shaft, (f) a stairway, (g) a void above a lower storey.	Complies N/A N/A
5 Maximum floor area for balconies, decks, patios, pergolas, terraces and verandahs		
(1) The maximum floor area of a balcony, deck, patio, pergola, terrace or verandah attached to a principal dwelling or secondary dwelling with a floor level of more than 3m above ground level (existing) is 12m ² .	For the purpose of calculating the floor area in subclause (1): "floor area" means the area of the balcony, deck, patio, pergola, terrace or verandah, measured at the floor level, where the area is taken to be the area within the outer face of: (a) the external walls, if the balcony, deck, patio, pergola, terrace or verandah is enclosed, or (b) the balustrade or other safety barrier if the balcony, deck, patio, pergola, terrace or verandah, is not enclosed.	N/A
Part 3 - Building heights and setbacks		
6 Building height	Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building having a building height above ground level (existing) of more than 8.5m.	Complies
7 Setbacks from roads, other than classified roads	(a) the average distance of the setbacks of the nearest 2 dwelling houses having a boundary with the same primary road and located within 40m of the lot on which the principal dwelling is erected, or (b) in any case where 2 dwelling houses are not located within 40m of the lot: (i) 4.5m, if the lot has an area of at least 450m ² but less than 900 square metres, or (ii) 6.5m, if the lot has an area of at least 900m ² but less than 1500m ² , or (iii) 10m, if the lot has an area of at least 1500m ² . (2) Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building having a setback from a boundary with a secondary road that is not a classified road of less than: (a) 2m, if the lot has an area of at least 450m ² but less than 600m ² , or (b) 3m, if the lot has an area of at least 600m ² but less than 1500m ² , or (c) 5m, if the lot has an area of at least 1500m ² .	Complies N/A
8 Setbacks from classified roads	(a) if another environmental planning instrument applying to the lot establishes a setback for a dwelling house having a boundary with a classified road, that distance, or (b) 9m in any other case.	N/A
Development for the purposes		

<p>of a secondary dwelling must not result in a new building or a new part of an existing building having a setback from a boundary with a classified road of less than:</p>		
<p>9 Setbacks from side boundaries</p> <p>(1) Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building having a setback from a side boundary of less than the following:</p>	<p>(a) 0.9m, if the lot has an area of at least 450m² but less than 900m², (b) 1.5m, if the lot has an area of at least 900m² but less than 1500m², (c) 2.5m, if the lot has an area of at least 1500m².</p> <p>(2) Development for the purposes of a secondary dwelling that involves the construction of a new building or additions to an existing building where the new or existing building will, at the end of the development, have a building height at any part of more than 3.8m must not result in the new building or any new part of the existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building, having a setback from a side boundary of less than the sum of: (a) the amount of the setback specified for the relevant sized lot in subclause (1), and (b) an amount that is equal to one-quarter of the additional building height above 3.8m.</p>	<p>Complies</p> <p>Complies</p>
<p>10 Setbacks from rear boundaries</p> <p>(1) Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building having a setback from a rear boundary of less than the following:</p>	<p>(a) 3m, if the lot has an area of at least 450m² but less than 900m², (b) 5m, if the lot has an area of at least 900m² but less than 1500m², (c) 10m, if the lot has an area of at least 1500m².</p> <p>(2) Development for the purposes of a secondary dwelling that involves the construction of a new building or additions to an existing building where the new or existing building will, at the end of the development, have a building height at any part of more than 3.8 m must not result in the new building or any new part of the existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building, having a setback from a rear boundary of less than the sum of: (a) 3m, plus an amount that is equal to three times the additional building height above 3.8m, up to a maximum setback of 8m, if the lot has an area of at least 450m² but less than 900m², or (b) 5m, plus an amount that is equal to three times the additional building height above 3.8m, up to a maximum setback of 12m, if the lot has an area of at least 900m² but less than 1500m², or (c) 10m, plus an amount that is equal to three times the additional building height above 3.8m, up to a maximum of 15m, if the lot has an area of at least 1500m². (3) Despite subclauses (1) and (2), a dwelling on a lot that has a rear boundary with a laneway may have a building line that abuts that boundary for up to 50% of the length of that boundary.</p>	<p>Complies</p>
<p>11 Exceptions to side and rear setbacks</p> <p>Despite any other <u>clause</u> in this Part:</p>	<p>(a) development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building having a setback of less than 3m from a boundary with a public reserve, and (b) side and rear setbacks from the boundary with a road do not apply to allowable encroachments permitted under <u>clause</u> 3.7.1.7 of Volume Two of the <i>Building Code of Australia</i> or any eave or roof overhang that has a horizontal width of not more than 0.45m.</p> <p>Note: The allowable encroachments permitted under <u>clause</u> 3.7.1.7 of Volume Two of the <i>Building Code of Australia</i> include fascias, gutters, downpipes, rainwater tanks, chimneys, flues, domestic fuel tanks, cooling or heating appliances, light fittings, electricity and gas meters, aerials, antennae, pergolas, sun blinds, unroofed terraces, landings, steps and certain ramps.</p>	<p>N/A</p>

<p>12 Calculating setbacks</p> <p>(1) For the purpose of calculating the setback of an existing dwelling, the location of any of the following is not included:</p>	<p>(a) any part of an existing garage or carport that is located between the building line of the dwelling and a boundary with the primary road, (b) any existing building element of a dwelling that is located within the articulation zone. (2) For the purpose of calculating the setbacks of the nearest 2 dwelling houses, those dwelling houses must be on the same side of the road as the lot. (3) For the purpose of calculating a side or rear setback, the maximum building height of a dwelling on a sloping lot is to be used. (4) A setback is to be calculated at the closest point to the boundary from the building line.</p>	Notes only
<p>13 Articulation zone</p>	<p>(1) Development for the purposes of a secondary dwelling (other than development on a battle-axe lot) must not result in neither the principal dwelling nor the secondary dwelling having a front door and a window to a habitable room in the building wall that faces a primary road. (2) Development for the purposes of a secondary dwelling (other than development on a battle-axe lot) must not result in neither the principal dwelling nor the secondary dwelling having a window to a habitable room in the building wall that faces a parallel road. (3) Development for the purposes of a secondary dwelling may incorporate an articulation zone from the secondary dwelling to a primary road, unless the secondary dwelling has a setback from the primary road of less than 3m.</p>	Complies
<p>14 Building elements within the articulation zone</p> <p>(1) The following building elements are permitted in an articulation zone:</p>	<p>(a) an entry feature or portico, (b) a balcony, deck, patio, pergola, terrace or verandah, (c) a window box treatment, (d) a bay window or similar feature, (e) an awning or other feature over a window, (f) a sun shading feature.</p> <p>(2) A building element must not extend above the eave gutter line, other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the building.</p> <p>(3) The maximum area of all building elements within the articulation zone, other than a building element listed in subclause (1) (e) or (f), must not be more than 25% of the area of the articulation zone, measured through the horizontal plane of the elements.</p>	N/A
<p>15 Privacy</p> <p>(1) Development for the purposes of a secondary dwelling must not result in a new window in the principal or secondary dwelling without a privacy screen if:</p>	<p>(a) it is a window in a habitable room, other than a bedroom, that has a floor level of more than 1 metre above ground level (existing), and (b) the wall in which the window is located has a setback of less than 3m from a side or rear boundary, and (c) the window has a sill height of less than 1.5m.</p> <p>(2) Development for the purposes of a secondary dwelling must not result in a new or altered balcony, deck, patio, pergola, terrace or verandah without a privacy screen if it: (a) has a setback of less than 3m from a side or rear boundary, and (b) has a floor area more than 3m², and (c) has a floor level more than 1m above ground level (existing).</p> <p>(3) Development for the purposes of a secondary dwelling must not result in a new or altered detached deck, patio, pergola or terrace having a floor level that is more than 0.6m above ground level (existing).</p> <p>(4) In this clause "alter" includes making additions to. "privacy screen" means a screen that: (a) faces the boundary identified in subclause (2) (a), and (b) is 1.5m high, measured from the floor level, and</p>	<p>N/A</p> <p>N/A</p>

	(c) has no individual opening more than 30mm wide, and (d) has a total of all openings less than 30% of the surface area of the screen.	
Part 4 - Landscaping		
16 Landscaped area (1) A lot on which development for the purposes of a secondary dwelling is carried out must have a landscaped area of at least the following:	(a) 20%, if the lot has an area of at least 450m ² but less than 600m ² , (b) 25%, if the lot has an area of at least 600m ² but less than 900m ² , (c) 35%, if the lot has an area of at least 900m ² but less than 1500m ² , (d) 45%, if the lot has an area of at least 1500m ² . (2) At least 50% of the landscaped area must be located behind the building line to the primary road boundary. (3) The landscaped area must be at least 2.5m wide.	Complies
17 Principal private open space	(1) A lot on which development for the purposes of a secondary dwelling is carried out must have at least 24m ² of principal private open space. (2) In this clause, "principal private open space" means: (a) an area that is directly accessible from, and adjacent to, a habitable room, other than a bedroom, and (b) is at least 4m wide, and (c) is not steeper than 1:50 gradient. Note: There is no requirement that additional parking spaces be provided in respect of development for the purposes of a secondary dwelling.	Complies
Part 5 - Earthworks and drainage		
18 Excavation of sloping sites (1) Excavation associated with development for the purposes of a secondary dwelling must:	(a) be not more than 1m below ground level (existing), and (b) be constructed using a retaining wall or unprotected embankment that meets the standards of subclause (2) or (3), respectively. (2) A retaining wall must not extend more than 1m horizontally beyond the external wall of the principal or secondary dwelling. (3) An unprotected embankment must not extend more than 1m horizontally beyond the external wall of the principal or secondary dwelling.	N/A
19 Fill of sloping sites	(1) Fill associated with development for the purposes of a secondary dwelling must be contained wholly within the external walls of the principal or secondary dwelling. (2) Despite subclause (1), exposed fill may be constructed using an unprotected embankment if the principal or secondary dwelling has a setback of more than 2m from a side or rear boundary, if: (a) the fill is not more than 0.6m above ground level (existing), and (b) the fill (but not the embankment) does not extend more than 1m beyond an external wall of the dwelling, and (c) the toe of the unprotected embankment has a setback of at least 0.4m from a side or rear boundary.	N/A
20 Run-off and erosion controls Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:	(a) diverting uncontaminated run-off around cleared or disturbed areas, and (b) erecting a silt fence to prevent debris escaping into drainage systems and waterways, and (c) preventing tracking of sediment by vehicles onto roads, and (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.	Construction requirement
21 Drainage (1) All stormwater collecting as a result of development for the purposes of a secondary dwelling must be conveyed by	(a) a public drainage system, or (b) an inter-allotment drainage system, or (c) an on-site disposal system. (2) All stormwater drainage systems within a lot and the connection to a public or an inter-allotment drainage system must: (a) if an approval is required under section 68 of the <i>Local Government Act 1993</i> , be approved under that Act, or	To drain to roadway as adequate fall to street

a gravity fed or charged system to:	(b) if an approval is not required under section 68 of the <u>Local Government Act 1993</u> , comply with any requirements for the disposal of stormwater drainage contained in a development control plan that is applicable to the land.	
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4.1 Rebuild Alison Homestead at 1 Cape Road Wyong for Wyong District Museum and Historical Society

TRIM REFERENCE: F2004/07840 - D02940824

MANAGER: Brett Phillips; Manager

AUTHOR: Paul Forster; Services Coordinator Property Administration

SUMMARY

It is proposed to rebuild the Alison Homestead at Cape Road Wyong, recently destroyed by fire in an arson attack, for the lessee Wyong District Museum and Historical Society using funds from the building insurance held in respect of the leased premises.

RECOMMENDATION

- 1** *The Council approve the re-construction of the previous building known as the Alison Homestead, 1 Cape Road Wyong, using current day building standards, materials and techniques.*
- 2** *That Council approve the work to be undertaken by a contractor, subject to the insurance claim on the fire damaged property being accepted by Council's insurer.*
- 3** *That Council receive tenders in accordance with s55 of the Local Government Act 1993.*

BACKGROUND

The Wyong District Museum and Historical Society Inc leases Lot 51 DP 788246 at 1 Cape road Wyong from Council. The leased premises include the historic Alison Homestead and a number of outbuildings including a barn, a slab hut, workshop building, amenities building and on site mobile home used as storage.

The premises are operated by the lessee as a Wyong Shire local history museum and archives.

The historic Alison Homestead building was recently destroyed in an arson attack.

CURRENT STATUS

WSC carries the building insurance for the leased premises and is insured for the sum of \$586,000.00. On any claims against its insurer Council is required to pay the excess in the amount of \$10,000.00.

WSC's Building Maintenance Section, has undertaken an assessment of the cost to repair and rebuild a replica of the Alison Homestead based on the replacement of the structure that existed prior to the fire, built with today's materials and current methods of construction.

4.1 **Rebuild Alison Homestead at 1 Cape Road Wyong for Wyong District Museum and Historical Society (contd)**

Site Security	\$3850-00
Demolish Damage Structure	\$14,500-00
Rebuild	\$270,000-00
Total	\$288,350-00

THE PROPOSAL

WSC proposes to advise its insurers that it wishes to rebuild the Alison Homestead based on the replacement of the structure that was existing prior to the fire, built with today's materials and modern construction methods.

Council's insurers will for its purposes assess the damage to the building with a view to making a payout to council in accordance with that assessment for the purpose of rebuilding the premises.

Subject to confirmation by the insurers of the amount to be paid for the rebuilding of the insured premises, Council would arrange a contractor to undertake the work. Insurance monies would be paid upon completion of the work. Council will be required to pay the \$10,000.00 excess

OPTIONS

The options available to Council in rebuilding Alison Homestead are listed below. Council has the option to make a claim against its insurers to either rebuild the Alison Homestead or to have its insurers pay out on the basis that Council does not intend to rebuild.

Option 1 – Rebuild to previous form using modern day building techniques

Rebuild a replica of the previous building using current day building standards, materials and techniques. This is the most cost effective and cheapest option available to Council.

Option 2 – Rebuild to original condition using period building methods and materials

Consider rebuilding using the same building materials and techniques that were used on the construction of the original building. This option is not considered feasible due to the likelihood of the required period materials and tradesmen with the necessary skills no longer being available.

Even it was assumed that the tradesman and material were available the cost of using this particular method would more than likely be greater than the insurance payout.

Option 3 – Redesign and Rebuild

Undertake a new design for a purpose built museum on site. This would mean a departure from the current historical form and shape of the existing building and would require part demolition of what remains of the existing building.

The benefits of this option are that it would allow Council to fully consider what building form is best placed to support the Museum and the preservation of historical objects into the future.

Option 4 – Demolition, clear site

Demolish remnants of existing building and clear the site. In the event that Council advised its insurers that it does not propose to rebuild, the insurance pay out would be less than if it were to rebuild. Council would retain the insurance pay out less any demolition costs. Council would terminate the lease to the Wyong District Museum and Historical Society and its activities on the site would be at an end.

CONCLUSION

The Homestead was substantially destroyed by the fire and impossible to restore.

Obtaining materials similar to the era the homestead was constructed would be difficult, time consuming and unlikely to be 100% successful. Building techniques could be replicated at some cost however, compliance with modern day standards would complicate construction significantly.

New design or demolition and clearance does not meet with community sentiment and the historical significance would be lost.

Construction of a replica building, using modern day materials and techniques, preserves the original appearance and “presence” of the building and is the closest approximation achievable of the destroyed building.

ATTACHMENTS

Nil.

5.1 Evaluation and selection of tenders for Contract CPA/209087 - Construction of a New Power Supply for Water Pumping Station 17 and Associated Works

TRIM REFERENCE: CPA/209087 - D02975461

MANAGER: David Witherdin; Manager Contract and Project Management

AUTHOR: John Tennant; Engineer

SUMMARY

Evaluation and selection of tenders for Contract No. CPA/209087 - Construction of a New Power Supply for Water Pumping Station 17 and Associated Works.

RECOMMENDATION

- 1** *That Council accept the tender from the company nominated as Tenderer '2' in the attached Tender Evaluation Report, for the lump sum amount of \$263,280 (excl GST) for Contract CPA/209087 – Construction of New Power Supply for Ourimbah Pump Station 17 and Associated Works.*
- 2** *That Council determines the Tender Evaluation Report Attachment A to the subject report, is to remain confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.*
- 3** *That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.*

BACKGROUND

Ourimbah Water Pump Station (WPS 17) forms part of the Gosford-Wyong Water Supply system. WPS 17 is owned and operated by Wyong Shire Council but jointly funded by both Wyong Shire and Gosford City Councils.

WPS 17, together with the Tuggerah 2 reservoir and the Gosford/Wyong Transfer Trunk Main, was constructed in 1986/1987 with a capacity of 100 ML/day for two-way water transfers between Gosford and Wyong. The two large capacity high voltage pumps originally installed at the station were selected on the basis of anticipated future demand predictions that have not materialised. The pump station has rarely been used since being put into service.

In November 2009 Gosford City Council commissioned Opus International Consultants Pty Ltd to review options for the future operation of WPS 17 based on the current predicted Year 2050 demand for the transfer of water between the Wyong and Gosford systems of 25 ML/day. The completion of the Mardi Suite of Works and the Mardi to Mangrove Link projects will ensure that sufficient capacity will be available within the Wyong water supply system to affect transfers to Gosford at the design rate.

5.1 Evaluation and selection of tenders for Contract CPA/209087 - Construction of a New Power Supply for Water Pumping Station 17 and Associated Works (contd)

Based on the Opus report the Joint Water Authority agreed to reconfigure WPS 17 by the decommissioning and removal of the existing pumping machinery, electrical switchgear and high voltage power supply and its reconfiguration with more efficient low voltage pumps and switchgear designed for the revised duty of 25 ML/day.

At the ordinary meeting held on 23 February 2011, Council:

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

That Council accept the tender from Ampcontrol Service NSW for a lump sum payment of \$16,775.00 (excl GST) for Contract CPA/187299 – Purchase and Removal of surplus materials and equipment from Ourimbah Water Pump Station (WPS 17).”

The works under CPA/187299 were completed in August 2011. The works necessary to reconfigure the pumping station involves the provision of a new low voltage power supply to the pumping station and the installation of new pumps and electrical switchgear.

The provision of the new power supply requires the construction of a new high voltage supply from the existing Ausgrid network and the establishment of a new electrical substation at the pumping station site to provide a low voltage supply of sufficient capacity to service the new pumps. When built, the new high voltage supply and electrical substation will become Ausgrid owned assets however, as is usually the case, Ausgrid require the customer (i.e. Wyong Shire Council) to fund the works and manage the procurement process. In this instance, Ausgrid propose to take the opportunity to decommission one of its ageing existing transformers that currently supplies some of its existing low voltage customers and supply those customers from the new substation to be built on the WPS 17 site. Under the energy supply agreement between Ausgrid and Council, Ausgrid will be funding those components of the works necessary to supply its existing customers and Council will fund the balance of the works necessary to supply power to WPS 17.

As with all works carried out on electricity distribution network, the Electricity Supply Act 1995 requires that such works may only be undertaken by Level 1 Accredited Service Providers registered with NSW Trade & Investment.

This report deals with the tenders invited for the construction of the new power supply to WPS 17.

Separate tenders for the contract for the supply and installation of the new pumping machinery and switchgear are to be invited in the near future to ensure that the new power supply is completed before award of that contract.

INVITATION TO TENDER

The tender was invited by way of public invitation. Advertisements were placed in the Central Coast Express Advocate on 21 February 2012 and in the Sydney Morning Herald on 22 February 2012. Tenders were also advertised on Council's e-Tender website. The advertised closing date was 22 March 2012.

5.1 Evaluation and selection of tenders for Contract CPA/209087 - Construction of a New Power Supply for Water Pumping Station 17 and Associated Works (contd)

The invitation documents called for lump-sum tenders, based on a detailed specification. Tenderers were required to nominate a unit rate for the excavation of rock in the event that it is encountered. Only Accredited Service Providers Level 1 (ASP1) were eligible to submit tenders.

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

1. Clarifying that Grade A, Grade B and Grade C ASP1 contractors were eligible to submit tenders.

Tenders closed at Council's Chambers at 2:00 pm on 22 March 2012.

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) Price;
- b) Conformity with the tender invitation documents;
- c) Experience;
- d) Past performance
- e) Level of Local Content

FINANCIAL IMPLICATIONS

There are sufficient funds allocated for this contract within the current year's capital works program under the 2011/12 Water Capital Works Program (Line Item IM 121). Funding will need to be carried over to the 2012/13 financial year.

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 10 A (2) (d) of the *Local Government Act 1993*. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

CRITICAL DATES / TIME FRAMES

It is anticipated that the contract will be awarded on 21 May 2012 and that the works will be available to be put into service by mid February 2013.

5.1 Evaluation and selection of tenders for Contract CPA/209087 - Construction of a New Power Supply for Water Pumping Station 17 and Associated Works (contd)

OPTIONS/ALTERNATIVES

Council has the option of not proceeding with this project 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 "A" to Business Paper Tender Report CPA
209087 - | D02976125 |
|---|---|-----------|

5.2 Evaluation and Selection of Tenderers for Contract No. CPA/200746 - Asphaltic Concrete Works Category Two - Supply and Lay.

TRIM REFERENCE: CPA/200746 - D02979009

MANAGER: Andrew Pearce; Manager, Roads and Stormwater

AUTHOR: Sue Ralph; Tech Officer Contracts Administrator

SUMMARY

Evaluation and selection of tenders for Contract No. CPA/200746 - Asphaltic Concrete Works Category Two – Supply and Lay Asphaltic Concrete Works.

RECOMMENDATION

- 1 That Council accepts the tender from the company nominated as Tenderer 1 in the attached Tender Evaluation Report, as the 1st ranked supplier on a panel contract for an initial period of 2 years in the estimated total amount of \$3,717,743.00 (excl GST) for Contract number CPA/200746 – Asphaltic Concrete Works Category 2 Supply and Lay.**
- 2 That Council accepts the tender from the company nominated as Tenderer 5 in the attached Tender Evaluation Report, as the 2nd ranked supplier on a panel contract for an initial period of 2 years in the estimated total amount of \$5,945,025.00 (excl GST) for Contract number CPA/200746 – Asphaltic Concrete Works Category 2 Supply and Lay.**
- 3 That Council determines the Tender Evaluation Report 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.**
- 4 That Council approve the contingency amount in Attachment A.**

BACKGROUND

The contract contains a number of requirements to provide a full range of services for the supply; delivery and laying of a variety of asphaltic concrete products. These services are utilised in the completion of Councils annual road pavement renewal and resealing programs in addition to works undertaken under contract for NSW Roads and Maritime.

Asphaltic Concrete is used mainly on higher volume, structurally superior pavements, such as main road works, bus routes and road pavements that have been reconstructed. These pavements provide a high level of durability and extended life cycles.

This contract is for a period of 2 years with a one year extension option, subject to the ongoing satisfactory performance by all contractors.

5.2 Evaluation and Selection of Tenderers for Contract No. CPA/200746 - Asphaltic Concrete Works Category Two - Supply and Lay. (contd)

The current contractor is Fulton Hogan Pty Ltd who has successfully met Council's obligation under contract CPA/147662 over the last 3 years. However, due to the increased use of asphalt across Council's works programs and the scale of work being undertaken on behalf of NSW Roads & Maritime, it is unlikely that a single contractor can continue to meet all of Council's asphalt laying activities consistently over a 3 year period. Consequently, a back up contractor has been recommended in the event the first ranked supplier does not have the capacity to meet Council's work schedules or provides unsatisfactory performance.

The Conditions of Tendering provided for Council to select a panel of suppliers ranked in accordance with a "value for money" tender assessment, and that the panel may consist of 1 or more suppliers. The Conditions of Tendering also provided for work to be allocated in accordance with the ranking order and subject to the contractors' availability and on going demonstrated performance.



INVITATION TO TENDER

The Tender was advertised in the Sydney Morning Herald on 30 August 2011 and the Central Coast Express Advocate on 31 August 2011. Tenders were also advertised on Council's e-Tender website. The advertised closing date was 22 September 2011.

TENDER SUBMISSIONS

Six submissions were received from the following organisations listed in alphabetical order.

- Bitupave Pty Ltd T/A Boral Asphalt
- Downer Australia Pty Ltd
- Fulton Hogan Industries Pty Ltd
- Ozpave Pty Ltd
- The Asphalt Man
- Tropic Asphalts Pty Ltd

TENDER EVALUATION

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

5.2 Evaluation and Selection of Tenderers for Contract No. CPA/200746 - Asphaltic Concrete Works Category Two - Supply and Lay. (contd)

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:

- 1 Price.
- 2 Experience.
- 3 Sustainability
- 4 Assessed level of Local Content

FINANCIAL IMPLICATIONS

Because the contract is of the nature of a standing offer arrangement, purchases will be funded from responsibility centres as transactions are processed, rather than from an allocation made to this contract itself. The estimated value of the arrangement is therefore not a budget figure, but rather it is simply an indication of the overall scope of the arrangement. The actual value will depend on the quantities ordered as requirements arise over the life of the arrangement. The total amount ordered under this arrangement could therefore vary significantly if demand patterns alter for this product/service.

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 10 A (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 / TIMEFRAMES

Works under this contract will commence May 2012 and will run through to May 2014.

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 contract has occurred.

ATTACHMENTS

- | | |
|---|-----------|
| 1 Confidential Attachment A to Business Paper Tender Report
CPA/200746 - | D02978989 |
|---|-----------|

5.3 Evaluation and selection of tenders for Contract CPA/185863 - Design, Documentation and Construction of the Bateau Bay Sewage Treatment Plant Inlet Works Augmentation

TRIM REFERENCE: CPA/185863 - D02985417

MANAGER: David Witherdin; Manager Contract and Project Management

AUTHOR: John Tennant; Engineer

SUMMARY

Evaluation and selection of tenders for Contract No. CPA/185863 - Design, Documentation and Construction of the Bateau Bay Sewage Treatment Plant Inlet Works Augmentation.

RECOMMENDATION

- 1** *That Council accept the tender from the company nominated as Tenderer '2' in the attached Tender Evaluation Report, for the lump sum amount of \$800,000 (excl GST) for Contract CPA/185863 – Design, Documentation and Construction of the Bateau Bay Sewage Treatment Plant Inlet Works Augmentation.*
- 2** *That Council determines the Tender Evaluation Report Attachment A to the subject report, is to remain confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.*
- 3** *That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.*

BACKGROUND

The first stage of the Bateau Bay Sewage Treatment Plant (STP) was constructed in the early 1970's and was upgraded in 1985. The 1985 upgrade included the construction of the existing inlet works, inlet screens and grit chambers.

The existing inlet screens are of the mechanically raked bar type, they are obsolete technology and are approaching the end of their design service life. The existing inlet screens and the associated screening washing equipment and the grit separators are in poor condition and produce a poor quality product that is high in faecal matter and presents operational difficulties both in terms of acceptable levels of Occupational Health and Safety, odour and materials handling from the STP to its disposal at Buttonderry Landfill.

The works to be undertaken in this contract include the design, supply and installation of two new inlet channel step screens, a new screenings washer and press, two new grit washer/separators and the necessary associated electrical switchgear. Ancillary works to improve safety of the inlet works include grating to all open channels new lighting and new ventilation fans.

5.3 Evaluation and selection of tenders for Contract CPA/185863 - Design, Documentation and Construction of the Bateau Bay Sewage Treatment Plant Inlet Works Augmentation (contd)

INVITATION TO TENDER

The tender was invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 10 January 2012 and the Central Coast Express Advocate on 11 January 2012. Tenders were also advertised on Council's e-Tender website. The advertised closing date was 16 February 2012.

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

A compulsory pre-tender meeting was held at the proposed work site on 1 February 2011 to allow tenderers to become familiar with site conditions.

Tenders closed at Council's Chambers at 2:00 am on 16 February 2012.

TENDER SUBMISSIONS

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

- Abergeldie Young Process Engineering Pty Ltd
- Aquatec-Maxcon Pty Ltd
- Civil Co-op Pty Ltd
- Eire Contractors Pty Ltd
- Gongues Constructions Pty Ltd
- Innaco Pty Ltd

No late submissions were received.

TENDER EVALUATION

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

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

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

- a) Price;
- b) Conformity with the tender invitation documents;
- c) Methodology;
- d) Experience;
- e) Past performance
- f) Level of Local Content

FINANCIAL IMPLICATIONS

There are sufficient funds allocated for this contract within the current year's capital works program under the 2011/12 Sewer Services Capital Works Program (Line Item IM 175). Funding will need to be carried over to the 2012/13 financial year.

5.3 Evaluation and selection of tenders for Contract CPA/185863 - Design, Documentation and Construction of the Bateau Bay Sewage Treatment Plant Inlet Works Augmentation (contd)

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 10 A (2) (d) of the *Local Government Act 1993*. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

CRITICAL DATES / TIME FRAMES

It is anticipated that the contract will be awarded on 1 May 2011 and that the works will be available to be put into service by mid February 2013.

OPTIONS/ALTERNATIVES

Council has the option of not proceeding with this project 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 Attachment to Business Paper Tender Report CPA 185863 - D02960800

6.1 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2012/01723 - D02922305
MANAGER: Lesley Crawley; Manager Corporate Governance
AUTHOR: Lisa Martin; Administration Assistant

SUMMARY

Councillors propose the following allocation of funds for expenditure from Councillors' Community Improvement Grants (CCIG).

RECOMMENDATION

That Council allocate an amount of \$3,960 from the 2011-12 Councillors' Community Improvement Grants as follows:

Proposed Allocations for 9 May 2012		
Aftercare PHaMs (\$2000)	To assist client living in severe squalor due to mental health issues	100.00
Camp Breakaway (\$5225) (\$1300 already allocated)	To purchase a bed-bath trolley for people with disabilities.	500.00
Homeless No More (\$2000)	Fundraising walkathon for needy	800.00
Northern Women's Health Centre Wyong (\$500)	Upgrade library with personal development texts	50.00
Positive Support Network (\$1800)	Printing of magazine for Gay & Lesbian Community & people with HIV & Aids	100.00
Razorbacks Junior Rugby Club (Ourimbah) (\$1690.00) (\$100 already allocated)	Repairs due to flooding of Ourimbah Creek	1,590.00
San Remo Tidy Towns (\$1000)	To purchase equipment to maintain San Remo area	100.00
The Lakes Singers (\$300)	Copyright printing & APRA licence - entertain the aged	50.00
Wyong Neighbourhood Centre and Iris Foundation (\$10000)	Slither and Slumber Sleep Out - early intervention projects for prevention of suicide	100.00
Wyong Shire Garden Competition Committee Inc (\$1930)	Function Room hire, expenses for 4 cars & printing of competition schedules	569.60

BACKGROUND

Provision has been made in Council's Annual Plan for each Councillor to recommend to Council the donation of funds to individuals, local service, charitable or community organisations that operate in the Shire or provide a benefit specifically to the residents of the Shire.

6.1 Proposed Councillors' Community Improvement Grants (contd)

Donations may also be made to individuals or groups in pursuit of excellence, including sporting and cultural excellence, subject to CCIG Policy. Funds may also be allocated for emergency assistance in the event of natural disasters such as bushfires, flood or drought anywhere in Australia, subject to CCIG Policy. The funds are granted subject to approval of the Council as a whole.

In accordance with Clause 2.2 of the Councillor's Community Improvement Grants Policy available funding for the 2011/2012 financial year is \$112,500. Clause 2.2 states:

"In the financial year preceding a Local Government election, the allocation to the individual Councillors will be 75% of the allocation identified in Clause 1.1 and will be available to Councillors from 1 July to 31 May of that year."

THE PROPOSAL

Under Council's Policy, all proposed allocations are subject to the approval of the Council as a whole.

OPTIONS

- 1 Approval of applications as submitted will provide a community benefit residents of the Shire.
- 2 Non approval could result in assistance not being provided to the community.

STRATEGIC LINKS

Annual Plan

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Community	Enhance the quality of life of the Shire's residents	1.1.11 – Community Financial Support

Contribution of Proposal to the Principal Activity

The Councillors' Community Improvement Grants were developed to help charitable community groups and in doing so helping the broader community.

Link to Shire Strategic Vision

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.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.
Facilities and Services - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.

Financial Implications

Expenditure is approved until the end of the 2011-12 financial year. Unspent approvals lapse 31 May 2012.

Principles of Sustainability

The CCIG program is aligned with the principles of sustainability in that it would:

- Improve and maintain safety, wellbeing and sense of community
- Use locally available resources to increase our self-reliance
- Support local and regional economic prosperity
- Build and strengthen partnerships and alliances

CONSULTATION

Applications that met the criteria were distributed to Councillors for their consideration.

GOVERNANCE

All expenditure recommended is permissible under Section 24 and 356(1) of the Local Government Act 1993.

CORPORATE RISKS

Nil impact.

CONCLUSION

The proposed allocations contained in this report are permissible under the Council's policy on Councillors' Community Improvement Grants. The process has been correct and Council may confirm the grants at its option.

Councillors' Community Improvement Grants 2011-12

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION	Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/07/2011 - 31/05/2012	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	112,500.00
Expenditure up to and including Ordinary Council Meeting of 26 April 2012	9,556.50	8,692.50	6,876.00	9,929.00	4,550.00	7,040.00	6,415.50	9,877.50	9,507.00	11,180.40	83,624.40
Available allocation as at 26 April 2012	1,693.50	2,557.50	4,374.00	1,321.00	6,700.00	4,210.00	4,834.50	1,372.50	1,743.00	69.60	28,875.60
Proposed Allocations for 9 May 2012											
Aftercare PHaMs (\$2000)	100.00										100.00
Camp Breakaway (\$5225 (\$1300 already allocated))							500.00				500.00
Homeless No More (\$2000)	500.00						300.00				800.00
Northern Women's Health Centre Wyong (\$500)	50.00										50.00
Positive Support Network (\$1800)	100.00										100.00
Razorbacks Junior Rugby Club (Ourimbah) (\$1690.00) (\$100 already allocated)			250.00			1,340.00					1,590.00
San Remo Tidy Towns (\$1000)	100.00										100.00
The Lakes Singers (\$300)	50.00										50.00
Wyong Neighbourhood Centre and Iris Foundation (\$10000)	100.00										100.00
Wyong Shire Garden Competition Committee Inc (\$1930)	200.00	300.00								69.60	569.60
Total Proposed Allocations for 9 May 2012	1,200	300	250	0	0	1,340	800	0	0	70	3,960
Total Accumulated Allocations as at 9 May 2012	10,757	8,993	7,126	9,929	4,550	8,380	7,216	9,878	9,507	11,250	87,584
Balance Uncommitted as at 9 May 2012	494	2,258	4,124	1,321	6,700	2,870	4,035	1,373	1,743	0	24,916

ATTACHMENTS

Nil.

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

TRIM REFERENCE: F2011/01716 - D02972103

MANAGER: Gina Vereker; Director Environment and Planning Services

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" grant (CFoC).

RECOMMENDATION

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 :

- ***Lot 1 DP 530125, 458-468 Main Road Noraville***
- ***Lot 1 DP 24532, 28 Budgewoi Road Noraville***

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 the CFoC grant 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. However there are other smaller tributaries in the Tuggerah Lakes catchment that aren't covered under these plans. As sites in these areas are brought to Council's attention, they are inspected by Council officers and assessed for prioritisation of works if any are required.

This report identifies an erosion site located on two private properties which has been prioritised for improvement works under the EMP implementation. Council's approval is required for the expenditure of the CFoC funds on private property.

CURRENT STATUS

The proposed work site is located on land owned by the Catholic Church on the site of St Mary's Catholic Primary School Toukley, and encroaches onto land owned by Mr and Mrs Summerling of Budgewoi Rd Noraville. (See locality plan attached).

The small unnamed spring fed creek is thought to have been the original water supply for the Toukley area and discharges into Toukley Wetland on the foreshore of Budgewoi Lake. When the Budgewoi Road / Wilfred Barrett Road upgrade was completed an increased amount of water was diverted through the original creek, leading to erosion deepening the channel and the formation of a scour hole which is noted by residents to be increasing in size.

The vegetation community surrounding the creek connects with the Toukley wetland and forms part of a vegetation corridor running north-south between the lakes and the beaches. It is mapped as Coastal Sand Mahogany – Paperbark Swamp Forest and has some patches of rainforest vegetation through the immediate riparian zone. The area is heavily infested with lantana and fringing bitou bush around the edges.

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, fencing, tree planting, tree maintenance, land clearing and tree felling and bank stabilisation using rock or soft engineering 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 sharing of costs. 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.
- If, as a result of the rehabilitation works, off-stream stock watering is required, this is to be provided by the land owner at his/her cost.
- 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.

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

- On properties where the removal of aquatic weed occurs, the follow up maintenance programs will also be provided by the property owner 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 school volunteer planting.

The most appropriate option for this site is to undertake rehabilitation work in the creek and surrounding vegetation. Works will include rock lining the scour hole to prevent further erosion, removal of weeds (particularly Weeds of National Significance WoNS) and replanting with provenance species. Parts of the replanting will be undertaken with help from children from the school, this will be arranged in conjunction with the school teachers – initial approval has already been granted by the Vice-principal. These actions will meet targets in both the Estuary Management Plan and the Caring for our Country grant.

2. Do nothing.

This will lead to continuing erosion and subsequent sedimentation of both the wetland and Budgewoi Lake in conjunction with continued spread of WoNS and other weeds.

PROPOSED WORKS

As part of the 2011/12 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.

Involving the school community in the works will increase not only environmental awareness in the youth of the area, but will also impart a sense of ownership which is likely to have continuing benefits for protection of the vegetation and creek. Initial discussions with the school regarding involving the school in the planting have suggested that children from all grades will be included to allow for the ownership of the area to be carried forward for years to come as the students move through their schooling.

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

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)
<p>Lot 1, DP 530125, 458-468 Main Road Noraville (St Marys Catholic School)</p> <p>Lot 1, DP 24532, 28 Budgewoi Road Noraville</p>	<ul style="list-style-type: none"> • Rock lining the scour hole in the creek channel to prevent further erosion. • Weed control through a 1 hectare area of bushland located on the school land, comprising of: <ul style="list-style-type: none"> ○ removal of weeds including WoNS (Lantana and Bitou Bush). ○ riparian planting, including school planting day. 	<p>\$50,000</p>

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
<p>- Environment and Land Use</p>	<p>6.4 - EPS Major Projects Mgt</p>	<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. 	<p>Caring for our Country funding for implementation of the Tuggerah Lakes Estuary Management Plan</p>	

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 Budgewoi Lake.

Link to Community Strategic Plan (2030)

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i>
Communities - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Community participation in these types of initiatives should foster a sense of ownership, belonging and pride and enable the community to recognise it's contribution to protection of the environment.
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 ownership and understanding of the importance of the Shire's waterways and natural areas.

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. The community ownership of the area will be sustained through the children who are involved in the project.

Long term Financial Strategy

Nil impact.

Asset Management Strategy

Nil impact.

Workforce Management Strategy

Nil impact.

Link to Community Strategic Plan (2030)

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, together with consideration of possible cost sharing arrangements. 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.

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

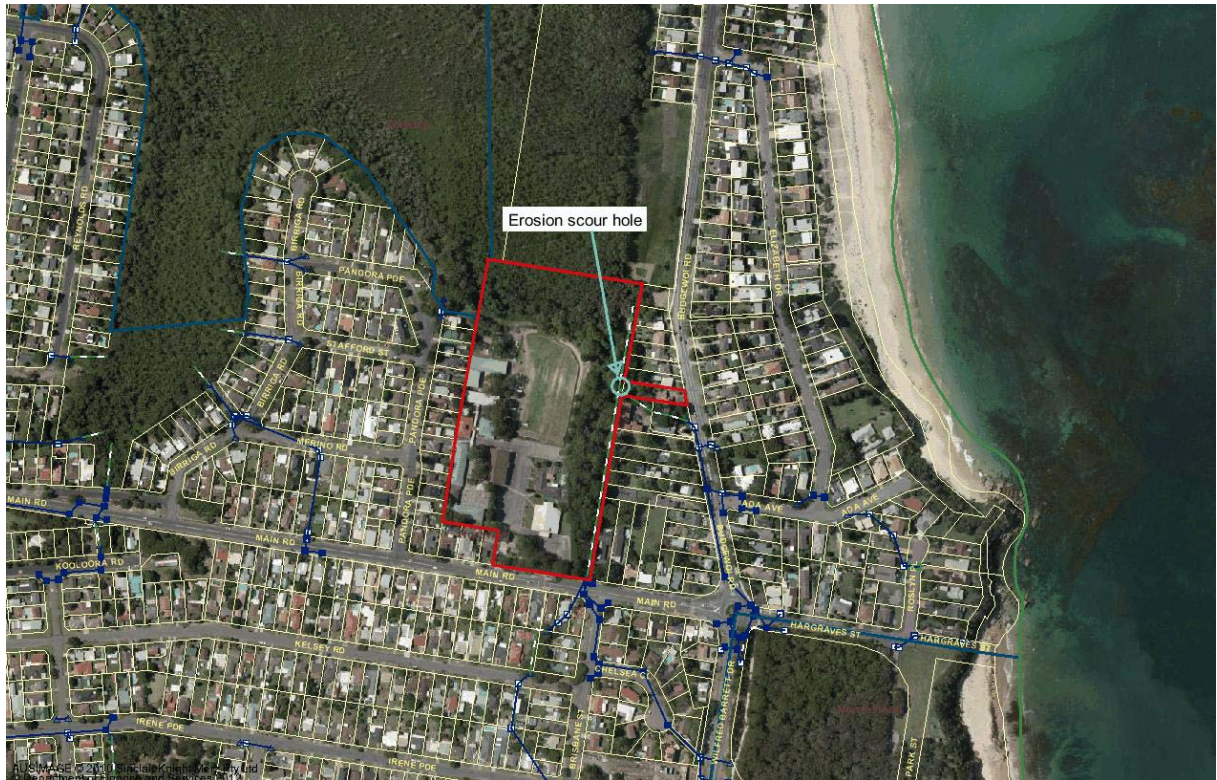
MATERIAL RISKS AND ISSUES

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 2011/12 financial year 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.

Locality Plan



ATTACHMENTS

Nil.

7.1 Information Reports

TRIM REFERENCE: F2012/00026 - D02979309

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

SUMMARY

In accordance with Council's Code of Meeting Practice reports for the Information of Council are provided for adoption either by nominated exception or in total.

RECOMMENDATION

That Council receive the report on Information Reports.

ATTACHMENTS

Nil.

7.2 Quarterly Update on Section 94 Contributions

TRIM REFERENCE: F2004/00552 - D02966416

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

AUTHOR: Sandy Rose; Contributions Officer

SUMMARY

This report provides the current status of Council's Section 94 and drainage contributions (excluding water and sewer) for July 2011 to March 2012.

RECOMMENDATION

That Council receive the report on Quarterly Update on Section 94 Contributions.

The following table shows the year to date budgeted Section 94 income per Contribution Plan compared with the year to date actual income.

Section 94 Contributions

Contribution Plan	Section 94				
	Actual Income YTD	Budgeted Income YTD	Variation YTD	Full Year Budget	Full Year Forecast
Budgewoi**	\$38,071	\$15,002	\$23,069	\$55,000	\$20,000
The Entrance	\$5,079	\$149,996	-\$144,917	\$550,000	\$200,000
Gorokan	\$16,547	\$15,002	\$1,545	\$110,000	\$20,000
Warnervale*	\$1,018,126	\$870,005	\$148,121	\$1,520,000	\$1,160,000
Ourimbah	\$26,041	\$30,004	-\$3,963	\$55,000	\$40,000
Southern Lakes	\$36,976	\$74,998	-\$38,022	\$233,000	\$100,000
San Remo	\$8,486	\$104,999	-\$96,513	\$220,000	\$140,000
Toukley	\$23,119	\$30,004	-\$6,885	\$110,000	\$40,000
Wyong	\$126,849	\$149,996	-\$23,147	\$386,300	\$200,000
Shire Wide	\$26,223	\$30,004	-\$3,781	\$275,000	\$40,000
Northern Districts	\$12,382	\$30,004	-\$17,622	\$95,700	\$40,000
Total	\$1,337,899	\$1,500,014	-\$162,115	\$3,610,000	\$2,000,000

* This includes \$695,814 (S94 \$582,056 and Drainage \$113,758) contributions from GP Super Clinic which will be included in the Warnervale Town Centre Plan when adopted.

** This includes 2 dual occupancies approved in the Buff Point area and 4 additional sites for a manufactured home village.

*** The Q1 2012 budget variations include an adjustment down in Section 94 full year budgeted income (difference between the last 2 columns).

Section 94 income for the quarter January 2012 to March 2012 was only \$230,831. No section 94 income was received in March 2012.

Drainage Contributions

Contribution Plan	Drainage				
	Actual Income YTD	Budgeted Income YTD	Variation YTD	Full Year Budget	Full Year Forecast
Budgewoi	\$0	\$0	\$0	\$0	\$0
The Entrance	\$0	\$0	\$0	\$0	\$0
Gorokan	\$0	\$0	\$0	\$0	\$0
Warnervale*	\$334,009	\$359,856	-\$25,847	\$480,000	\$480,000
Ourimbah	\$0	\$0	\$0	\$0	\$0
Southern Lakes	\$0	\$58,104	-\$58,104	\$77,500	\$77,500
San Remo	\$0	\$0	\$0	\$0	\$0
Toukley	\$0	\$0	\$0	\$0	\$0
Wyong	\$17,832	\$10,125	\$7,707	\$13,500	\$13,500
Shire Wide	\$0	\$0	\$0	\$0	\$0
Northern Districts	\$0	\$0	\$0	\$0	\$0
Total	\$351,841	\$428,085	-\$76,244	\$571,000	\$571,000

The total projected S94 income for 2011/12 is \$2,571,000 (including drainage). Projected income is based upon forecasting development activity and the review of previous year actual income received. A conservative approach has been used to project income for 2011/2012.

Unfunded Liabilities

In accordance with an outcome of the Councillor workshop held 10-11 February 2012, a strategy is currently being developed to manage current and potential future unfunded liabilities. A report and a draft strategy will be presented to a May Ordinary meeting for Councillor's consideration.

ATTACHMENTS

Nil.

7.3 Disclosure of Interest Returns - 1 January to 30 April 2012

TRIM REFERENCE: F2011/01634 - D02922931

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

SUMMARY

The Local Government Act, 1993 requires Disclosure of Interest (DOI) Returns for Councillors and Designated Persons to be lodged with the General Manager who, in turn is required to keep a register of the Disclosure of Interest Returns.

The Act further requires the DOI Returns lodged with the General Manager to be tabled at a meeting of Council.

RECOMMENDATION

That Council receive the report on Disclosure of Interest Returns - 1 January to 30 April 2012.

BACKGROUND

In accordance with the Local Government Act 1993, staff are required to lodge a Return within three months of being appointed to a designated position. Councillors and staff are also encouraged to lodge an amended return if circumstances change during the year.

Section 450A(2)(a) also specifies that the General Manager must table the returns lodged under Section 449(1). The returns for the period 1 January to 30 April 2012 are now tabled.

NB

Sections 449(1) and (5) of the Local Government Act, 1993 - Disclosure of Interest Returns for Councillors and Designated Persons to be lodged with GM

Section 450A(1) – register required of the Disclosure of Interest Returns lodged.

Section 450A(2) - Returns lodged with the General Manager under section 449(1) to be tabled at a meeting of Council.

ATTACHMENTS

- 1 List of Disclosures of Interest 1 January to 30 April 2012 D02922965

**Disclosures of Interest
1 January to 30 April 2012**

Councillors

-

Staff

Austen-Gray K
Cook A (resignation)
Elwell M
Laface S
Paterson W (resignation)
Phillips B
Prince S (resignation)
Siviero D
Smith D (resignation)
Trivers C (resignation)

7.4 Mardi to Mangrove Link Project Status

TRIM REFERENCE: F2007/01120 - D02979467

MANAGER: Daryl Mann; Acting Manager Water and Sewer

AUTHOR: Daniel Kemp; Engineer

SUMMARY

Report on status of Mardi to Mangrove Link Project.

RECOMMENDATION

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

PROJECT SCOPE

- Wyong River off-take structure and pumping station
- Wyong River to Mardi-Dam 2.1 kilometre pipeline
- Inlet works at Mardi Dam
- Mardi-Mangrove transfer pumping station
- Mardi Dam to Mangrove Creek Dam 19 kilometre pipeline
- Lower Wyong River Weir, Fishway and Gauging

CURRENT STATUS

Expenditure to date April 2012 \$109.3m

Value of works Complete April 2012 \$115.5m

Approved Budget \$120.6m

Overall Construction Status (excluding Commissioning)	Completion Date:	April 2012	% Work Complete:	99%
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Construction Status

	Scheduled Start	Scheduled Completion	% Work Complete
Milestone 1:		February 2012	99%
Pre-construction – Management Plans & Approvals	4 January 2010		100%
Work Package 1 – Wyong River Off-take	7 April 2010		100%
Work Package 2 – Wyong River Pump Station	19 February 2010		99%
Work Package 3 – Wyong Mardi Rising Main 3	16 February 2010		100%
Work Package 4 – Wyong Mardi Inlet	6 May 2010		100%
Work Package 7 – Mardi Mangrove Transfer Main	1 March 2010		100%
Work Package 18 – Wyong Weir, Fishway & Gauging	5 August 2010		100%

Milestone 2:		4 April 2011	100%
Work Package 6 – Mardi Mangrove Transfer Pump Station	21 June 2010		100%
Milestone 3:		27 February 2012 *	99%
Commissioning	1 August 2011		

*(Dates as per JH latest program C29) * excl 2 week contractor's float*

Key Dates

	Scheduled Completion	Actual Completion	Complete
Review of Environmental Factors (REF) submitted	30 June 2009	30 June 2009	<input checked="" type="checkbox"/>
Call for Expressions of Interest (EOI)	9 July 2009	9 July 2009	<input checked="" type="checkbox"/>
EOI closes	30 July 2009	30 July 2009	<input checked="" type="checkbox"/>
Determination Approval	14 October 2009	23 September 2009	<input checked="" type="checkbox"/>
Issue Request for Tenders (RFT)	16 October 2009	16 October 2009	<input checked="" type="checkbox"/>
Tenders close	12 November 2009	12 November 2009	<input checked="" type="checkbox"/>
Council consider Award of Construction Contract	9 December 2009	9 December 2009	<input checked="" type="checkbox"/>
Expiry of PAN 90 day notification period	31 December 2009	31 December 2009	<input checked="" type="checkbox"/>
Minister/Governor determination of compulsory acquisition applications	27 January 2010	27 January 2010	<input checked="" type="checkbox"/>
Pipeline Construction	27 January 2011	25 September 2011	<input checked="" type="checkbox"/>
Transfer Pump Station Construction	31 January 2011	4 April 2011	<input checked="" type="checkbox"/>
Commissioning	6 May 2011		<input type="checkbox"/>
Project Completion	June 2011		<input type="checkbox"/>

Land Matters

- Pipe laying has been completed on all properties.
- 54/56 properties have been restored (excluding minor outstanding works).
- Works have been 100% completed by John Holland on 54/56 properties.
- 50/56 landholders have signed releases.
- Easement Plans have been prepared for all properties and have been sent to the Office of Water.

Stakeholder Liaison

Media

- No media releases this week.

Resident communication

- Direct liaison with affected landholders is ongoing via the Project Team.

Incidents

- No significant Environmental incidents.
- There was one safety incident that occurred in the last period. A JH employee was struck in the head by a spanner while tightening bolts, which required stitches. This employee returned to work the next day.

Major Achievements / Issues

Note: there are a number of minor outstanding works that do not affect operation of the pump stations

- Work Package 1: All construction work has been completed including commissioning. An issue with the pressure rating of the inlet mains is still to be resolved
- Work Package 2: All work has been completed including commissioning
- Work Package 3: All work has been completed including commissioning.
- Work Package 4: All work has been completed including commissioning
- Work Package 6: All work has been completed including commissioning

- Work Package 7: All work has been completed including commissioning.
- Work Package 18: All work has been completed including commissioning
- Intergraded commissioning is complete
- Operator training will commence this week, with project handover after training

ATTACHMENTS

Nil.

7.5 Outstanding Questions on Notice and Notices of Motion

TRIM REFERENCE: F2012/00026 - D02977541

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Susanna Gardiner; Councillor Services Officer

SUMMARY

Report on outstanding Questions on Notice and Notices of Motion.

RECOMMENDATION

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

ATTACHMENTS

- | | | | |
|---|---|-----------|-----------|
| 1 | Table of Outstanding Questions on Notice and Notices of Motion - 9 May 2012 | Enclosure | D02986240 |
|---|---|-----------|-----------|

8.1 Answers to Question on Notice

TRIM REFERENCE: CPA/205510 - D02973324

MANAGER: Marie Hanson-Kentwell; Manager Human Resources

AUTHOR: David Secomb; Insurance Controller, Risk Management

8.1 Q12/12 Impact of a Section 149 Flood Affection Notation on Residential Property Premiums

The following question was asked by Councillor Eaton at the Ordinary Meeting on 28 March 2012 :

“Could Council request its insurance broker/ insurers to advise Council on the impact on individual residential property premiums of a S149 flood affection notation due to predicted sea level rise?”.

Jardine Lloyd Thompson (Broker) advised that a number of insurers have their own flood mapping records when allocating premiums. This was confirmed by WSC staff who advised that in some cases insurer's records do not agree with notations on Section 149 Certificates. However, insurers do not require Section 149 Certificates when offering householders insurance.

Any insurance policy is written taking into account the known risks that affect the insured property. Flood is a known risk therefore in areas prone to flood either additional premium will be charged or no cover extended. Each individual property owners risk will be assessed on an individual basis. Each underwriter has their own method of assessing those risks.

ATTACHMENTS

Nil.

8.2 Answers to Question on Notice

TRIM REFERENCE: F2004/07086 - D02978528

MANAGER: Gina Vereker; Director Environment and Planning Services

AUTHOR: Jane Doyle; Senior Administration Support Officer

8.2 Q 11/12 Wallarah 2 Coal Wording - The Hon Chris Hartcher MP

The following question was asked by Councillor Wynn at the Ordinary Meeting held on 28 March 2012:

"Can Council please ascertain the wording of the Minister for the Central Coast, The Honourable Chris Hartcher MP, from the meeting held at Mingara Sport and Recreation Club on Wednesday 21 March 2012, for State Plan 281, with regard to Wallarah 2 Coal Mine, where it is believed he stated the NSW State Government was beginning the process to revoke the licence to explore/mine by Wallarah 2 Coal?"

Council representations were made to the Minister's office for the Central Coast, the Hon Chris Hartcher, requesting the wording of a meeting held at Mingara Sport and Recreation Club on 21 March 2012.

Mr Lindsay Cohen, Departmental Liaison Officer, Resources, Minister Hartcher's Office confirmed that the office does not have a transcript of every meeting he attends, however, included in his correspondence was an extract from Hansard on the topic from 8 March 2012 which provides further information regarding the Licence.

"Exploration licence No. 4911 was granted in October 1995 by the Carr Labor Government and it expired in 2010. The Labor Government took no action at that time in respect of exploration and under the Act it therefore continued on until a determination was made. In September 2011 I wrote to the company advising them that it was my intention to cancel the exploration licence, giving them a certain amount of time to show cause as to why I should not cancel the licence. The company has since responded with a carefully presented formulation. That formulation, asking that the licence not be suspended, is being assessed and determined by the department in accordance with the law.

In November 2011 the company lodged an application under the Environmental Planning and Assessment Act 1979 with the Minister for Planning and Infrastructure for a development consent for the granting of a mining lease. In January 2012 the Director General, in accordance with the law, issued the Director General's requirements. At every level, the O'Farrell Government has acted appropriately in accordance with the law of New South Wales, whether it is the Mining Act 1992 or the Environmental Planning and Assessment Act 1979. The issue of great significance in relation to Korea Resources Corporation application and the exploration licence is the protection of the water catchment area for the Central Coast."

ATTACHMENTS

Nil.

9.1 Notice of Motion - Private Construction of Footpath on Southern Side of Alison Road, Wyong

TRIM REFERENCE: F2004/07706 - D02978637

AUTHORS: Bob Graham; Councillor
Sue Wynn; Councillor

Councillors Graham and Wynn have given notice that at the Ordinary Council Meeting to be held on 9 May 2012 they will move the following Motion:

- "1 That Council request the General Manager to report on the circumstances surrounding the private construction of the footpath situated on the southern side of Alison Road, Wyong.*
- 2 That Council request the General Manger to include in the report, but not be limited to, the following:*
 - the Council approvals required and the approvals obtained*
 - any potential liability and ongoing maintenance issues/costs to Council."*

RESOURCES

Report to be prepared using existing staff resources.

9.2 Notice of Motion - Ausgrid

TRIM REFERENCE: CPA/158914 - D02980122

AUTHOR: Sue Wynn; Councillor

Councillor Sue Wynn has given notice that at the Ordinary Council Meeting to be held on 9 May 2012 she will move the following Motion:

- “1 That Council approach senior staff from Ausgrid with a view to developing an agreed joint approach to the following:-
 - a Masterplanning of future urban precincts to achieve improved coordination of the location of Ausgrid infrastructure with Council landscaping and street tree planting programs.
 - b Enhanced engagement and communication with the community regarding Ausgrid tree maintenance programs and schedules.
- 2 That Council request Ausgrid to formally commit to the undergrounding of power lines whenever upgrading and/or relocating existing power lines within urban areas.
- 3 That Council invite Ausgrid to be involved in the review of Council's Landscaping Chapter of Development Control Plan 2012 with respect to the selection of appropriate species for street planting.
- 4 That Council request Ausgrid to agree that in circumstances where it carries out significant vegetation maintenance on a major road/visually prominent location (such as Wyong Road), Ausgrid will replace the existing vegetation with more appropriate species that will not require significant future maintenance.”

RESOURCES

The implementation of this NOM will be undertaken by existing staff within the Environment and Planning Services Department. It is not envisaged that any additional resources would be required.

In respect to point 3, Council's Landscaping Policy (currently not a Chapter of DCP 2012) is scheduled for a comprehensive review in the Land Use Planning and Policy Development 2012-13 Business Unit Plan.

All stakeholders, including Ausgrid will be consulted when undertaking the review.

9 May 2012

To the Ordinary Council Meeting

Councillor

9.3 Notice of Motion - Assisting Housing Affordability

TRIM REFERENCE: F2004/07706 - D02987730

AUTHOR: Doug Eaton; Councillor

Councillor Doug Eaton has given notice that at the Ordinary Council Meeting to be held on 9 May 2012 he will move the following Motion:

“That Council vary its policy on collection of s94 contributions to allow for the contributions to be paid prior to issue of Occupation Certificate.”

DIRECTOR COMMENTS

Existing Collection System

Contributions are currently collected at critical points in the approval process depending on the type of development i.e.

1. Subdivision – prior to the release of subdivision certificate (which allows plans to be registered and land titles issued by the Land Titles Office)
2. Unit Development – prior to the issue of construction certificate (which allows building work to commence)

This is the standard approach to the collection of contributions that has been taken historically by local government across NSW.

The principal rationale for the payment trigger points is that it provides an absolute guarantee of payments early in the development process.

Housing Affordability

There is limited evidence to suggest that deferral of contribution payments has any impact on the viability of projects and the associated affordability - the market and many other factors such as holding costs, State Government fees and charges, house size, design and personal incomes determine affordability.

The value of development contributions specified in consents are indexed (except land costs) in accordance with the CPI, between the date of the consent and the date that they are paid. Thus, the savings that developers potentially make are the interest costs less the CPI increase.

While these savings may be made, there is no guarantee or process by which Council can ensure that any savings are passed on to the consumer.

9.3 Notice of Motion - Assisting Housing Affordability (contd)

The long standing approach adopted by developers to reduce holding costs is to release smaller stages and/or sell off the plan, so as to reduce the time between outlaying contribution monies (and all the other development costs) and a return upon the sale of lots/units.

Consumer Protection

The proposal to defer contribution payments muddies the waters as to whose is responsible for paying contributions. The deferral of contributions to the Occupation Certificate effectively transfers the legal responsibility for the payment of contributions from the developer to the new land purchaser, as development consents 'run' with the land.

There would also be a new obligation on Council to ensure that prospective purchasers are notified of their obligation to pay contributions.

Compliance

The proposal to defer contributions until the occupation certificate will have a number of significant compliance issues for Council, which could ultimately mean Council is unsuccessful in collecting contributions. A collection system based on the payment prior to the Occupation Certificate has the potential to fail in the following steps:

- The owner moves into a dwelling without occupation certificate.
- Council's powers to issue an order for the owner to vacate the premises until contributions have been paid is hindered by the obligation under the Environmental Planning & Assessment Act (EP&A Act) to consider whether such an order will make the occupant homeless.
- Clause 109M of the EP & A Act prevents Council from issuing an order if the building has been occupied without an occupation certificate for more than 12 months.
- Council could then potentially take action against the owner under the EP&A Act in the Land & Environment Court (LEC) for a breach of the development consent (at significant cost).

This compliance problem is magnified if a private certifier is involved in the issue of the construction and/or occupation certificate.

Resources and Costs

The current approach to the collection of development contributions prior the issue of a subdivision certificate or construction certificate is efficient and provides certainty for Council.

Significant additional internal resources would need to be allocated to track each development application to ensure that contribution payments are made after all other approvals have been given i.e. there is no motivation for an applicant to pay the contribution once their development is already complete.

The collection of contributions for a 50 lot subdivision is currently one process at one point in time. If contributions are deferred until the occupation certificate, the process would involve 50 separate processes over conceivably more than 5 years depending on the rate of building activity within the subdivision.

9.3 Notice of Motion - Assisting Housing Affordability (contd)

It is estimated that an additional 0.5 FTE would be required to address the increase in payment activity and monitoring.

It is estimated that an additional 0.5 FTE would be required to effectively monitor and instigate appropriate action to ensure the collection of contributions.

Conclusion

The adoption of a policy that allows contributions to be paid prior to the occupation certificate will have significant cost and compliance implications for Council. It will also have potential consumer protection implications.

Any cost savings that may be made by developers will be at the expense of Council and consumers i.e. the community.

The proposal to collect contributions at the end of the process rather than at the beginning (prior to commencement) from a building budgeting perspective, means that contributions will be competing for the reducing funds to complete the development rather than being part of the preliminary expenses.

9 May 2012

To the Ordinary Council Meeting

Councillor

9.4 Notice of Motion - Council Calls for Thomson's Resignation

TRIM REFERENCE: F2004/07706 - D02987739

AUTHORS: Greg Best; Councillor
Doug Eaton; Councillor

Councillors Greg Best and Doug Eaton have given notice that at the Ordinary Council Meeting to be held on they will move the following Motion:

- "1 That Council considers that the community has lost confidence in the now "independent" Federal Member for Dobell, Mr Craig Thomson, as he now has no legitimacy and no mandate to represent this community due to being originally elected as a Labor Party candidate.*
- 2 That Council, on behalf of the local community, formally call on Mr Thomson to immediately resign."*

RESOURCES

The action will be completed using existing resources.

9 May 2012

To the Ordinary Council Meeting

Councillor

9.5 Notice of Motion - Cane Toad Early Detection

TRIM REFERENCE: F2004/07706 - D02987769

AUTHOR: Greg Best; Councillor

Councillor Greg Best has given notice that at the Ordinary Council Meeting to be held on 9 May 2012 they will move the following Motion:

- "1 That Council note the imminent infestation of cane toads in Wyong Shire.*
- 2 That Council take a pro-active approach to the cane toad issue.*
- 3 That Council develop a strategic, shire wide education and reporting program in relation to cane toads.*
- 4 That Council note that the cane toad is highly toxic and has the potential to devastate natural wildlife and domestic pets.*
- 5 That Council investigate all effective measures for response including the use of cane toad detector dogs, as used in Sutherland Shire.*
- 3 That Council request the General Manager to report findings and defensive initiatives."*

RESOURCES

There are no reported breeding populations of Cane Toads in the Wyong Shire Local Government area. The nearest breeding populations are Port Macquarie to the north and Taren Point to the south. After a discussion with Bronwyn Conyers of NPWS, she expressed the opinion that Wyong Shire is not in imminent danger of infestation, the main worry is the occasional toad that is inadvertently brought back from infested areas.

Wyong Shire Council has one FTE who has full responsibility for both noxious plants and noxious animals. No resource currently exists to implement this NOM.