



As part of the Estuary Management Plan, Council has been running kayak tours down the local rivers to educate the community about the importance of stream bank rehabilitation, catchment areas and the effect they have on our lakes. This has been funded from the Australian Government's Caring for our Country initiative.

Wyong Shire Council

# Business Paper

## ORDINARY COUNCIL MEETING

12 June 2013

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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 12 June 2013 at 5.00 pm,  
for the transaction of the business listed below:**

## OPENING PRAYER

## ACKNOWLEDGEMENT OF COUNTRY

## RECEIPT OF APOLOGIES

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**7 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**

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TRIM REFERENCE: F2013/00023 - D03382802

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

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

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TRIM REFERENCE: F2013/00023 - D03382873

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

### SUMMARY

There were no inspections scheduled for 5 June 2013 at the time of printing the business paper.

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

Date	Briefing	Directorate
12 June 2013	Special Rate Rise	General Manager's Unit
12 June 2013	Wallarah 2	Development and Building
12 June 2013	DLEP Amendments	Land Management
12 June 2013	General Manager's Performance Plan 2013/14	General Manager's Unit
12 June 2013	CONFIDENTIAL Central Coast Taxis	Land Management
12 June 2013	CONFIDENTIAL Lifeguard Review	Community and Recreation Services

### RECOMMENDATION

*That Council receive the report on Proposed Inspections and Briefings.*

### ATTACHMENTS

- 1 Proposed Future Briefings - 12 June 2013 D03399616

## Proposed Briefings List to date

Briefing Title:	Directorate:	Proposed Month:	Proposed Date:
CONFIDENTIAL - Central Coast Taxis	Land Management		12/06/2013
Special Rate Variation application - IPART	GM Unit		12/06/2013
Wallarrah 2	Development and Building		12/06/2013
CONFIDENTIAL - Lifeguard Review	Community and Recreation Services		12/06/2013
DLEP Amendments	Land Management		12/06/2013
General Managers Performance Plan 2013/14	GM Unit		12/06/2013
Affordable Housing Study - Councillor Workshop	Land Management		26/06/2013
Review of Local Government Act	GM Unit		26/06/2013
Local Government Independent Review Panel	GM Unit		26/06/2013
S94A Contributions Plan Review - Precinct 7A			26/06/2013
Revision of Community Feedback and Complaint Management Policy & Draft Customer Service Charter	Community and Recreation Services		10/07/2013
Bateau Bay and Lake Haven Draft Masterplan	Land Management		10/07/2013
CONFIDENTIAL - Child Care Review Framework	Community and Recreation Services		10/07/2013
Alison Homestead	Community and Recreation Services		10/07/2013
Library Strategic Plan	Community and Recreation Services		24/07/2013
Outcome of Branding Strategy	Community and Recreation Services		24/07/2013
Q4 2012/13	GM Unit		28/08/2013
Engagement story - where we've come from, where we're headed	Community and Recreation Services		28/08/2013
Q1 2013/14	GM Unit		27/11/2013
Community Precinct Committees	Community and Recreation Services		
Urban Design Principles & Concepts	Land Management	June	
Rezoning - 223 Scenic Drive Colongra	Land Management	July	
Natural Resources Management Strategy	Land Management	September	
Biodiversity Management Plan	Land Management	September	
Long Jetty Masterplan	Land Management	June	
Tuggerah Town Centre	Land Management	August	
IPART Final Determination on Water Pricing	GM Unit		

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

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TRIM REFERENCE: F2013/00023 - D03382865  
MANAGER: Lesley Crawley, Manager Corporate Governance  
AUTHOR: Sonia Witt; TL Governance and Councillor Services

#### **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.***

#### **ATTACHMENTS**

*Nil.*



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

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TRIM REFERENCE: F2013/00023 - D03382804

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

### **SUMMARY**

Confirmation of minutes of the previous Extraordinary Meeting of Council held on Thursday 16 May 2013 and the Ordinary Meeting of Council held on Wednesday 22 May 2013.

### **RECOMMENDATION**

*That Council confirm the minutes of the previous Extraordinary Meeting of Council held on Thursday 16 May 2013 and the Ordinary Meeting of Council held on Wednesday 22 May 2013.*

### **ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | MINUTES - Extraordinary Council Meeting - 16 May 2013 | D03366562 |
| 2 | MINUTES - Ordinary Council Meeting - 22 May 2013      | D03376347 |

WYONG SHIRE COUNCIL

MINUTES OF THE  
**EXTRAORDINARY COUNCIL MEETING OF COUNCIL**  
HELD AT THE GOSFORD REGIONAL GALLERY AND ARTS CENTRE  
36 WEBB ST, EAST GOSFORD  
ON 16 MAY 2013  
COMMENCING AT 7:00 PM

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**PRESENT**

Councillors D J Eaton (Chairperson), G P Best, R L Graham, K G Greenwald, L R Y Nayna, L S Taylor, A Troy, D P Vincent and L D Webster.

**IN ATTENDANCE**

General Manager and one administration staff.

The Mayor, Councillor Eaton, declared the meeting open at 7.01 pm.

**APOLOGY**

An apology for the inability to attend the meeting was received on behalf of Councillor Matthews due to work commitments.

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

***That Council accept the apology and grant leave of absence from the meeting.***

**1.1 Disclosure of Interest**

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

***621/13 That Council receive the report on Disclosure of Interest and the fact that no disclosure was made be noted.***

**PROCEDURAL MOTION**

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

***622/13 That Council adopt the balance of the agenda.***

**2.1 Terms of Reference - Central Coast Regional Organisation of Councils**

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

**623/13 That Council adopt the amended Terms of Reference - Central Coast Regional Organisation of Councils be adopted subject to the following further amendments:**

**A The amendment of the Membership of Committee as follows:**

*Executive Group – Mayors, Deputy Mayors and General Manager of Gosford and Wyong Councils. Gosford – Councillor Doyle, Councillor Macfadyen (alternate) Councillor McKinna (Chair – when Gosford hosting meeting). Wyong – Councillor Eaton (Chair – when Wyong hosting meeting). Councillor Luke Nayna. (Each Council is to nominate their own alternates.)*

**B The amendment of the Terms of Reference as follows:**

*To encourage closer co-ordination among Local, State and ~~Commonwealth~~ Federal Governments for the promotion and benefit of the region.*

**C The Code of Meeting Practice to be referred to the Executive at their next meeting.**

**2.2 Conduct Review Panel**

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

**624/13 That Wyong Shire Council appoint a panel of Code of Conduct Reviewers listed in Confidential Attachment A, who will provide services to Wyong Shire Council in accordance with the Code of Conduct Administrative Procedures for the period up to and including April 30 2017.**

**625/13 That Council note that Gosford City Council will also be appointing the same Reviewers.**

**3.1 Release of the Independent Local Government Review Panel 'Future Directions' Report**

---

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

**626/13 That Council receive the report on Release of the Independent Local Government Review Panel 'Future Directions' Report.**

**3.2 Gosford City Council Business Principles for the Implementation of the Central Coast Water Corporation**

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

- 627/13 That Council receive the information.**
- 628/13 That Council advise key staff stakeholders including unions that Wyong Shire Council will not be transferring any staff on the 1 July 2014, as a result of the Gosford City Council resolution.**
- 629/13 That Council develop the funding and services agreement for 2013-14 with the Central Coast Water Corporation, to deliver Phase 1 functions only.**
- 630/13 That Council not provide any additional funding to the Central Coast Water Corporation for the next financial year , on the basis of the report presented by the Independent Local Government Review Panel with respect to the Central Coast Water Corporation.**
- 631/13 That Council request the Central Coast Water Corporation to utilise the accumulated surplus to fund Phase 1 activities.**

**THE MEETING** closed at 7.09 pm.

**WYONG SHIRE COUNCIL**

**MINUTES OF THE  
ORDINARY COUNCIL MEETING OF COUNCIL  
HELD IN THE COUNCIL CHAMBER  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON 22 MAY 2013  
COMMENCING AT 5:00 PM**

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**PRESENT**

Councillors D J Eaton (Chairperson), G P Best, R L Graham, K G Greenwald, L A Matthews (arrived 5.57pm), L R Y Nayna, L S Taylor, A Troy, D P Vincent and L D Webster.

**IN ATTENDANCE**

General Manager, Acting Director Development and Planning, Director Infrastructure and Operations, Director Land Management, Director Community and Recreation Services, Chief Financial Officer, Manager Corporate Governance, Manager Human Resources, Organisational Development Partner, Contract Systems Manager, Manager Communications and two administration staff.

The Mayor, Councillor Eaton, declared the meeting open at 5.02 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

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

The Mayor presented the following Wyong Chamber of Commerce Awards to Councillor Best, who accepted on behalf of Central Coast Group Training;

- Business of the Year
- Employer of Choice

**APOLOGIES**

There were no apologies.

**1.1 Disclosure of Interest**

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**2.2 DA/1087/2012 – Large Scale Commercial Premises at Tuggerah Business Park**

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training, the applicant, left the chamber at 5.35 pm, took no part in discussion, did not vote and returned to the chamber at 5.37 pm.

Councillor Eaton declared a non-pecuniary insignificant interest in the matter for the reason that he is a Council delegate to Central Coast Group Training and participated in consideration of this matter.

Councillor Eaton 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."*

### **2.3 Results of Public Exhibition of Proposed Amendments to Clause 16 of the Wyong LEP, 1991**

Councillor Eaton declared a pecuniary interest in the matter for the reason that he and his wife own property that may be affected, left the chamber at 5.37 pm, took no part in discussion, did not vote and returned to the chamber at 5.38 pm.

### **3.1 CPA/220296 – Panel Contract for GTO**

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training who is a tenderer, left the chamber at 5.38 pm, took no part in discussion, did not vote and returned to the chamber at 5.40 pm.

Councillor Eaton declared a non-pecuniary insignificant interest in the matter for the reason that he is a Council delegate to Central Coast Group Training and participated in consideration of this matter.

Councillor Eaton 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."*

### **4.4 Review of Alcohol Free Zones – Wyong Shire**

Councillor Greenwald declared a pecuniary interest in the matter for the reason that he is an employee of NSW Police force who endorsed the recommendation, left the chamber at 5.47 pm, took no part in discussion, did not vote and returned to the chamber at 5.48 pm.

### **4.7 Recommendations and Minutes of the Employment and Economic Development Committee**

Councillor Vincent declared a non-pecuniary significant conflict of interest in the matter for the reason that he is an employee of Delta Electricity who own land where a possible cogeneration project may be established, left the chamber at 5.56 pm, took no part in discussion, did not vote and returned to the chamber at 5.59 pm.

### **5.8 Capital Works – Road Adjustment**

Councillor Best declared a non-pecuniary insignificant interest in the matter for the reason that the company he runs owns property in one of the roads marked for an upgrade and participated in consideration of this matter.

Councillor Best 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 it is very minor."*

Councillor Webster declared a non-pecuniary insignificant interest in the matter for the reason that her business is located in Reliance Drive, Tuggerah Business Park and participated in consideration of this matter.

Councillor Webster stated:

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

Councillor Nayna declared a non-pecuniary insignificant interest in the matter for the reason that he is a resident of Dudley Street, Lake Haven which is identified for works and participated in consideration of this matter.

Councillor Nayna 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."*

### **6.1 Notice of Motion – Bike Blitz on Cycle Way Menace**

Councillor Greenwald declared a pecuniary interest in the matter for the reason that he is an employee of NSW Police and motion is asking for direction actions by NSW Police, left the chamber at 6.11 pm, took no part in discussion, did not vote and returned to the chamber at 6.31 pm.

### **7.1 Superannuation**

Mr Michael Whittaker, General Manager declared a pecuniary interest in the matter for the reason that the recommendation will directly impacts his remuneration, left the chamber at 7.01 pm, took no part in discussion and did not return.

Mr Greg McDonald, Director Infrastructure and Operations declared a pecuniary interest in the matter for the reason that the recommendation will directly impacts his remuneration, left the chamber at 7.01 pm, took no part in discussion and did not return.

Ms Maxine Kenyon, Director Community and Recreation declared a pecuniary interest in the matter for the reason that the recommendation will directly impacts her remuneration, left the chamber at 7.01 pm, took no part in discussion and did not return.

Mr Jari Ihalainen, Director Land Management declared a pecuniary interest in the matter for the reason that the recommendation will directly impacts his remuneration, left the chamber at 7.01 pm, took no part in discussion and did not return.

Mr Jamie Loader, Acting Director Development and Building declared a pecuniary interest in the matter for the reason that it relates to his superannuation and employment, left the chamber at 7.01 pm, took no part in discussion and did not return.

### **7.2 Mayoral Minute – General Manager’s Employment Contract**

Mr Michael Whittaker, General Manager declared a pecuniary interest in the matter for the reason that it relates to his employment , left the chamber at 7.01 pm, took no part in discussion and did not return.

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

632/13 That Council receive the report on Disclosure of Interest and note advice of disclosures.

**PROCEDURAL MOTION**

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

633/13 That Council allow meeting practice to be varied.

634/13 That Council use the exception method to deal with the balance of the Agenda.

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

635/13 That with the exception of report numbers 1.4, 2.1, 2.2, 2.3, 3.1, 3.4, 4.3, 4.4, 4.7, 5.1, 5.6, 6.1 and 6.2, Council adopt the recommendations contained in the remaining reports.

**1.2 Proposed Inspections and Briefings**

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

636/13 That Council receive the report on Proposed Inspections and Briefings.

**1.3 Address By Invited Speakers**

---

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

637/13 That Council receive the amended report on Invited Speakers.

638/13 That Council agree meeting practice be varied to allow reports from Directors and/or the General Manager to be dealt with following an Invited Speaker's address.

**1.4 Confirmation of Minutes of Previous Meeting**

---

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

639/13 That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 8 May 2013.



**Business Arising**

Councillor Best advised that he believes comments made by Councillor Graham to various media outlets in relation to the previous minutes Item 3.4 – Policy for Use of Mayoral Chains, were inaccurate and inappropriate and requested that Councillor Graham submit a public apology in writing to Councillors, Council staff and the Mayor.

**1.5 Notice of Intention to Deal with Matter in Confidential Session**

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

**640/13 That Council consider the following matter in Confidential Session, pursuant to Section 10A 2(a) of the Local Government Act 1993:**

**7.1 Superannuation**

**7.2 Mayoral Minute – General Manager’s Employment Contract**

**641/13 That Council note its reasons for considering item 7.1 – Superannuation as it contains information concerning particular individuals (other than Councillors).**

**642/13 That Council note its reasons for considering item 7.2 – Mayoral Minute – General Manager’s Employment Contract as it contains information concerning particular individuals (other than Councillors).**

**643/13 That Council request the General Manager to report on this matter in open session of Council.**

**2.1 DA 229/2010/b Section 96 (1a) Application to Proposed 110 Lot Residential Subdivision at Blue Haven**

Councillor Vincent left the meeting at 5.24 pm and returned to the meeting at 5.26 pm during consideration of this item.

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

**644/13 That Council modify Development Consent No 229/2010 having regard to the matters for consideration detailed in Section 96(1A) of the Environmental Planning and Assessment Act and other relevant issues, subject to the conditions detailed in the schedule attached to the report.**

**645/13 That Council modify the Development Consent in respect to condition number 6.**

**646/13 That Council refuse to modify the consent as requested in respect to the deletion of condition number 24 for the reasons that the design restricts antisocial behaviour and lowers the incidence of graffiti.**

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

AGAINST: NIL

**2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park**

---

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training, the applicant, left the chamber at 5.35 pm, took no part in discussion, did not vote and returned to the chamber at 5.37 pm.

Councillor Eaton declared a non-pecuniary insignificant interest in the matter for the reason that he is a Council delegate to Central Coast Group Training and participated in consideration of this matter.

Councillor Eaton stated:

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

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

**647/13 That Council grant consent subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.**

**648/13 That Council vary Development Control Plan 2005 Chapter 80 – Tuggerah Precinct in regard to front and side setbacks to permit the development.**

**649/13 That Council vary Development Control Plan 2005 Chapter 50 – Advertising Signs in regard to a proposed freestanding sign to permit the development.**

**650/13 That Council send a copy of the Determination to the NSW Office of Water for information.**

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

AGAINST: NIL

**2.3 Results of Public Exhibition of Proposed Amendment to Clause 16 of the Wyong LEP, 1991**

---

Councillor Eaton declared a pecuniary interest in the matter for the reason that he and his wife own property that may be affected, left the chamber at 5.37 pm, took no part in discussion, did not vote and returned to the chamber at 5.38 pm.

Councillor Eaton vacated the chair and Councillor Webster assumed the Chair for consideration of this item.

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

**651/13 That Council delegate authority to the General Manager to undertake any amendments to the Planning Proposal and supporting documents required by Parliamentary Counsel or the NSW Department of**

**Planning and Infrastructure.**

**652/13** That the Planning Proposal which includes LEP (Amendment No. 187) be referred to the General Manager to decide to make the Plan in accordance with Section 59 of the Environmental Planning and Assessment Act, 1979, and to forward relevant documentation to the NSW Department of Planning and Infrastructure to arrange for the Plan to be notified.

**653/13** That Council advise those who made submissions of the decision.

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

AGAINST: NIL

Councillor Eaton resumed the chair.

**3.1 CPA/220296 - Panel Contract for GTO**

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training who is a tenderer, left the chamber at 5.38 pm, took no part in discussion, did not vote and returned to the chamber at 5.40 pm.

Councillor Eaton declared a non-pecuniary insignificant interest in the matter for the reason that he is a Council delegate to Central Coast Group Training and participated in consideration of this matter.

Councillor Eaton stated:

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

Councillor Nayna left the meeting at 5.39 pm and returned to the meeting at 5.40 pm during consideration

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

**654/13** That Council accepts the tender from Central Coast Group Training nominated as Tenderer 'A' in the attached Tender Evaluation Report, for the estimated total amount of \$1,378,642.08 (excl GST) for Contract CPA/220296 – Panel Contract for GTO as Ranked Panel Member 1.

**655/13** That Council accepts the tender from Novaskill nominated as Tenderer 'B' in the attached Tender Evaluation Report, for the estimated total amount of \$1,354, 826.62 (excl GST) for Contract CPA/220296 – Panel Contract for GTO as Ranked Panel Member 2.

**656/13** That Council determines the Tender Evaluation Report in Attachment A remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.

**3.2 Extension of Time - CPA/125834 - Provision of Effluent and Sludge Removal Services**

---

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

- 657/13 That Council authorise the General Manager to cease the Council's direct provision of charge based effluent and sludge removal and disposal services by a Contractor to Council as at 31 December 2013;
- 658/13 That Council authorise the General Manager to implement the operational changes necessary to:
- a Offer incentives to those ratepayers affected to connect to the sewer in a timely manner, where the appropriate level of connection to sewer services is available, by implementing a time payment plan for costs incurred under Council's Sewer Contribution Charges;
  - b Install flow meters at Council discharge sites in order to accurately measure the volume per kilolitre of effluent and sludge disposed of at those sites by Contractors for accounts receivable purposes;
- 659/13 That Council authorise the removal of the prescribed charges for the removal and disposal of effluent and sludge from the Strategic Plan 2013/2014; and
- 660/13 That Council approve the extension of the current contract for effluent and sludge removal and disposal with Remondis Australia Pty Ltd to 31 December 2013.

**3.3 CPA/168046 - Corporate Uniform Contract Extension**

---

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

- 661/13 That Council approve a contract extension for two years with Goodgear Pty Ltd for the supply and delivery of corporate uniforms.
- 662/13 That Council note the estimated value of the contract extension is approximately \$170K over two years.

**3.4 CPA/225141 - Construction of DN355mm-Polyethylene Water Main Warnervale Road, Hamlyn Terrace**

---

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

- 663/13 That Council accept the tender from Bothar Boring and Tunnelling Operations Pty Ltd nominated as Tenderer '1' in the attached Tender Evaluation Report, for the lump sum amount of \$496,931.67 (excl GST) for Contract CPA/225141 – Construction of DN355mm Polyethylene Water Main, Warnervale Road, Hamlyn Terrace.

- 664/13 That Council determine the Tender Evaluation Report in Attachment A, remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.
- 665/13 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.

#### 4.1 2012-16 Strategic Plan - March Quarter Review (Q3)

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

- 666/13 That Council receive the third Quarterly Review Report on progress against the WSC 2012-16 Strategic Plan.
- 667/13 That Council note that Council's Responsible Accounting Officer has declared the financial position of Wyong Shire Council to be satisfactory.

#### 4.2 Determination of Water and Sewer Fees and Charges 2013 - 2014

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

- 668/13 That Council approve the water, sewerage and drainage Service Charges set out in Attachment 1.
- 669/13 That Council note the amount of revenue to be raised by way of the Service Charges is estimated at \$46,431,515.
- 670/13 That Council classify all land for the purpose of levying Services Charges according to the following factors:
- a whether the land is residential or non residential;
  - b where the land is residential, by the intensity of the use of the land; and
  - c the nature and extent of the water or sewerage services connected to each individual allotment.
- 671/13 That Council determine the Service Charges shall be levied in accordance with the Water Management Act 2000.

**4.3 Rationalisation of Category 1 Liquid Trade Waste Dischargers Requiring Council Approval**

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

**672/13 That Council endorse the following;**

- ***That those Category 1 Liquid Trade Waste activities prescribed as being exempt by the NSW Office of Water Guidelines be removed from Council's Liquid Trade Waste approval process effective 1 July 2013;***
- ***That Council's current Liquid Trade Waste Policy be amended to reflect the above; and***
- ***That the Annual Trade Waste Fee be discontinued for those exempted Category 1 activities.***

**4.4 Review of Alcohol Free Zones - Wyong Shire**

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Councillor Greenwald declared a pecuniary interest in the matter for the reason that he is an employee of NSW Police force who endorsed the recommendation, left the chamber at 5.47 pm, took no part in discussion, did not vote and returned to the chamber at 5.48 pm.

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

**673/13 That Council adopt the Alcohol Free Zones as outlined in the enclosure (including the proposed extension to the Budgewoi Zone as identified in the public submission) to this report for the period 30 June 2013 to 30 June 2017.**

**674/13 That Council advise the NSW Anti-Discrimination Board of the adoption of the alcohol-free zones.**

**675/13 That Council place a notice of the adoption of the alcohol –free zones in the local newspaper**

**676/13 That Council advise those who made submission and other interested parties of the decision.**

**4.5 Amendment to Facilities and Expenses for Councillors Policy**

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

**677/13 That Council note that two submissions were received on the proposal.**

**678/13 That Council adopt the amended Facilities and Expenses for Councillors Policy.**

**4.6 Minutes of the Estuary Management, Coastal and Floodplain Management Committee held on 9 May 2013**

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

- 679/13 That Council receive the Minutes of the Estuary Management, Coastal and Floodplain Management Committee held on 9 May 2013.
- 680/13 That Council maintain the existing hazard lines removing reference to 2050 and 2100, adopting an immediate high and low Coastal Planning Zone.
- 681/13 That Council amend the development control plan to reflect a risk based approach to develop land rather than sterilise it, which requires the applicant to demonstrate suitability within the zone.
- 682/13 That Council consider minor development in front of the immediate hazard line and within the Coastal Planning Zone these developments to be defined in the CP when amended and not require significant engineering coastal studies.
- 683/13 That Council endorse the Committee's recommendations.

**4.7 Recommendations and Minutes of the Employment and Economic Development Committee**

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Councillor Vincent declared a non-pecuniary significant conflict of interest in the matter for the reason that he is an employee of Delta Electricity who own land where a possible cogeneration project may be established, left the chamber at 5.56 pm, took no part in discussion, did not vote and returned to the chamber at 5.59 pm.

Councillor Troy left the meeting at 5.50 pm and returned to the meeting at 5.51 pm during consideration of this item.

Councillor Matthews entered the meeting at 5.57 pm during consideration of this item.

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

- 684/13 That Council receive the minutes of the Employment and Economic Development Committee meeting held on 1 May 2013.
- 685/13 That Council request the General Manager to provide a report to the Employment and Economic Development Committee on potential motor sport sites.
- 686/13 That Council request the General Manager to advise the Employment and Economic Development Committee on the balance between encouraging employment and economic activity versus rigid compliance.
- 687/13 That Council request the General Manager to provide a report to the Employment and Economic Development Committee on the streamlining of the fees and policy for progressing planning proposals.

688/13 That Council request the General Manager to provide a report to the Employment and Economic Development Committee on the possible extension of the Section 94 Stimulus Package to the Warnervale Town Centre.

689/13 That Council note the Employment and Economic Development Committee endorsement of the Draft Incentive Policy for Iconic Development on Key Sites, subject to the addition of the following dot point to part D4;

*“That Council may consider varying the public benefit multiplier where Council forms a view that the proposed development is of significant public benefit in itself.”*

#### **5.1 Bicycle Racks on Buses**

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

690/13 That Council receive the report on Bicycle Racks on Buses.

#### **5.2 Investment Report for April 2013**

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

691/13 That Council receive the Investment Report for April 2013.

#### **5.3 Quarterly Update on Section 94 Contributions**

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

692/13 That Council receive the report on Quarterly Update on Section 94 Contributions.

#### **5.4 Works in Progress - Water Supply and Sewerage**

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

693/13 That Council receive the report on Works in Progress - Water Supply and Sewerage.



**5.5 Activities of the Development Assessment and Building Certification and Health Units**

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

**694/13 That Council receive the report on Activities of the Development Assessment and Building Certification and Health Units for April 2013.**

**5.6 Results of Water Quality Testing for Beaches and Lake Swimming Locations**

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

**695/13 That Council receive the report on Results of Water Quality Testing for Beaches and Lake Swimming Locations.**

**5.7 Outstanding Questions on Notice and Notices of Motion**

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

**696/13 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.**

**5.8 Capital Works - Road Adjustment**

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Councillor Best declared a non-pecuniary insignificant interest in the matter for the reason that the company he runs owns property in one of the roads marked for an upgrade and participated in consideration of this matter.

Councillor Best 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 it is very minor."*

Councillor Webster declared a non-pecuniary insignificant interest in the matter for the reason that her business is located in Reliance Drive, Tuggerah Business Park and participated in consideration of this matter.

Councillor Webster stated:

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

Councillor Nayna declared a non-pecuniary insignificant interest in the matter for the reason that he is a resident of Dudley Street, Lake Haven which is identified for works and participated in consideration of this matter.

Councillor Nayna stated:

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

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

**697/13** That Council allocate an additional \$2,762,000 to the roads budget to be spent from savings in other areas of the 2012/13 Capital Works program.

#### **6.1 Notice of Motion - Bike Blitz on Cycle Way Menace**

Mr Wes Hooper, resident, addressed the meeting at 6.11 pm, answered questions and retired at 6.18 pm.

Councillor Greenwald declared a pecuniary interest in the matter for the reason that he is an employee of NSW Police and motion is asking for direct actions by NSW Police, left the chamber at 6.11 pm, took no part in discussion, did not vote and returned to the chamber at 6.31 pm.

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

**698/13** That Council note with great concern the escalation of unlicensed and unregistered motor bikes using the Shires shared pathways which are frequented by young cycling families and the elderly.

**699/13** That Council raises these concerns as a matter of public safety and as a possible public liability risk.

**700/13** That Council formally raise these community concerns with the Local Area Command (NSW Police) with a view to conducting a series of enforcement blitzes across the Shire, in an endeavour to reign in this extremely dangerous behaviour by unlicensed, unregistered and uninsured juveniles.

**701/13** That Council highlight the importance of responsible bike usage, through its communication section and various media outlets and include outcomes and penalties applied as a result on heightened enforcement.

**702/13** That Council direct the General Manager to report the response from the Local Area Command and suggested action, followed by a later outcomes update report to Council.

**6.2 Notice of Motion - Common Sense Review of Tree Application  
TA/170/13**

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Mr Peter Lisle, resident, addressed the meeting at 6.31 pm, answered questions and retired at 6.43 pm.

Councillor Taylor left the meeting at 6.39 pm and returned to the meeting at 6.43 pm during consideration of this item.

Councillor Vincent left the meeting at 6.50 pm and returned to the meeting at 6.52 pm during consideration of this item.

Councillor Troy left the meeting at 6.56 pm and returned to the meeting at 6.57 pm during consideration of this item.

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

**703/13 That Council invite the applicant for TA/170/2013 to lodge a s82A Application for review of the determination made by Council staff on 22 April 2013.**

**704/13 That Council waive the requirement for the lodgement of an Arborist's Report to support the s82A application in this instance.**

**705/13 That Council waive the fee for the lodgement of the s82A application.**

**706/13 That Council refer the application to the General Manager for determination with an indication that it favours approval for the removal of the trees to which the application relates, subject to appropriate conditions.**

Confidential items 7.1 and 7.2 were resolved via the exception method during open session. The Mayor reported on this item as follows:

**7.1 Superannuation**

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**707/13 That Council apply the 0.25% increase in superannuation to all eligible award staff (96% of our total staff) in a consistent manner (as we did when SGC last increased in the 1990's/2000's).**

**708/13 That Council:**

a) **approve to increase the Senior Designated Officer (SDO) level staff total employment package in the same way as the Award staff,**

b) **approve to increase the SDO level staff total employment package as a minimum the same way as the Award staff and in addition as a retention strategy remove the superannuation maximum contribution cap applicable to SDO's.**

**709/13 That Council note that amendments to the Superannuation Scheme are in response to and in accordance with legislative requirements.**

**7.2 Mayoral Minute - General Manager's Employment Contract**

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**710/13** *That Council endorse the Mayor with authority to sign the attached contract, including standard Department of Local Government Contract for May 2015 through to May 2020 to the General Manager.*

**QUESTIONS ON NOTICE****Q19/13 Norah Head Staircase Eye Sore  
Councillor Greg Best**

Mr Mayor, Many local residents have raised this issue with me. Could you please advise when Council intends removing the old concrete pile of steps dumped on Soldiers Beach by staff some two years ago during the construction of the new timber staircase to the west? Further Mr Mayor, the embankment in this area is also failing and exposing old timber and metal shoring materials that are also an eye sore and quite likely a danger to the public.

**Q20/13 Don Small Oval  
Councillor Greg Best**

Mr Mayor, I was very disappointed to recently learn of the fire that destroyed the Don Small Oval facilities. At the completion of the fire investigation could you arrange for a staff report to Council addressing key issues around future facility options?

**Q21/13 Australian Institute of Company Directors Councillors Course  
Completion  
Councillor Lloyd Taylor**

Mr Mayor, As a new Councillor I am regularly reminded on waste and mismanagement of previous Councils such as Councillors attending rate payer funded courses in particular the Australian Institute of Company Directors course reportedly at the cost of approximately \$27,000.

What concerns me as a new Councillor is that it is been suggested that a number of Councillors did not bother to sit the final examination. Could you please confirm if this is correct and are any of these Councillors still sitting? Further is there any mechanism for them to repay the wasted funds?

**Response to Q18/13****Councillor Taylor**

Mr Mayor, could you please advise Councillor Graham that the response to his Question on Notice Q18/13, is "shortly"?

**THE MEETING** closed at 7.06 pm.

## **1.5 Notice of Intention to Deal with Matter in Confidential Session**

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TRIM REFERENCE: F2004/06257 - D03361753

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

### **SUMMARY**

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

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

### **RECOMMENDATION**

- 1 That Council consider the following matter in Confidential Session, pursuant to Section 10A 2(a) and (d) of the Local Government Act 1993:**
  - 7.1 Metro Cinemas**
  - 7.2 Future of Beach Safety Services**
  - 7.3 Organisation Structure**
  - 7.4 Sick Leave**
- 2 That Council note its reasons for considering item 7.1 – Metro Cinemas as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business and is commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it, or (ii) confer a commercial advantage on a competitor of the Council, or (iii) reveal a trade secret.**
- 3 That Council note its reason for considering item 7.2 – Future of Beach Safety as it contains information concerning particular individuals (other than Councillors).**
- 4 That Council note its reason for considering item 7.3 – Organisation Structure as it contains information concerning particular individuals (other than Councillors).**
- 5 That Council note its reason for considering item 7.4 – Sick Leave as it contains information concerning particular individuals (other than Councillors).**
- 6 That Council request the General Manager to report on this matter in open session of Council.**

## **1.5 Notice of Intention to Deal with Matter in Confidential Session (contd)**

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

- “2(a) personnel matters concerning particular individuals (other than Councillors),*
- 2(b) the personal hardship of any resident or ratepayer,*
- 2(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,*
- 2(d) commercial information of a confidential nature that would, if disclosed:*
  - (i) prejudice the commercial position of the person who supplied it, or*
  - (ii) confer a commercial advantage on a competitor of the Council, or*
  - (iii) reveal a trade secret,*
- 2(e) information that would, if disclosed, prejudice the maintenance of law,*
- 2(f) matters affecting the security of the Council, Councillors, Council staff or Council property,*
- 2(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,*
- 2(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.”*

## 2.1 RZ/10/2012 - Rezoning to Permit Woolworths Supermarket, Petrol Filling Station and limited Specialty Shopping at Wadalba

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TRIM REFERENCE: RZ/10/2012 - D03368067

MANAGER: Martin Johnson, Manager Strategic Development

AUTHOR: Scott Duncan; Senior Strategic Planner

### SUMMARY

Council is in receipt of a rezoning application (Planning Proposal) which seeks to remove existing planning constraints which restrict the development of a further supermarket and ancillary commercial facilities and infrastructure on vacant land adjacent to the Wadalba Village Centre.

The Planning Proposal is considered on balance to be worthy of Council support and subject to a satisfactory Gateway Determination (and additionally a satisfactory peer review of the accompanying Economic Impact Assessment and appropriate Urban Design Guidelines for the site and its neighbourhood integration) capable of proceeding to public exhibition/consultation.

<b>Applicant</b>	The Planning Group NSW Pty. Ltd.
<b>Owner</b>	Fabcot Pty Ltd
<b>Description of Land</b>	Lot 195 DP1006789 Figtree Boulevard, Wadalba
<b>Site Area</b>	Approximately 1.5 hectares
<b>Existing Use</b>	Vacant Land
<b>Employment Generation</b>	228 (+) jobs (operational) 55 direct / 88 indirect jobs (during construction)
<b>Estimated Value</b>	\$14 (+) million construction cost.

### RECOMMENDATION

- 1 ***That Council initiate the Local Environmental Plan "Gateway" process, pursuant to Section 55 of the Environmental Planning and Assessment Act, 1979 by the 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 executes a Funding Agreement with the applicant to finance the ongoing assessment of the Planning Proposal, subject to the determination of the Gateway Process.***
- 4 ***That Council request the General Manager to apply to accept plan making***

## 2.1 RZ/10/2012 - Rezoning to Permit Woolworths Supermarket, Petrol Filling Station and limited Specialty Shopping at Wadalba (contd)

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*delegations for the rezoning.*

- 5 *That Council note that additional information will need to be submitted prior to proceeding to public exhibition/consultation.*
- 6 *That Council develop and exhibit appropriate Development Control Plan provisions to ensure consistency with the Planning Proposal and provide guidelines for future development.*
- 7 *That Council direct the General Manager to provide a further report be submitted to Council to report on the results of the consultation phase and the preparation of a relevant LEP and DCP amendment.*

### BACKGROUND/INTRODUCTION

The owner of the land (Fabcot Pty Ltd) has previously sought to have the land rezoned in 2003 and lodged at the same time. This proposal was for a retail proposal comprising a 2,000m<sup>2</sup> Woolworths Supermarket and 500m<sup>2</sup> of Specialty shops (DA/2573/2003). The subject Development Application was refused by Council in 2004, with the refusal subsequently upheld by the NSW Land and Environment Court.

A Planning Proposal to rezone the land was submitted in 2009 by Fabcot Pty Ltd, but did not proceed to Council for consideration.

The owners, through Woolworths, have expressed a view that the time is appropriate for a second supermarket at Wadalba and have made a relevant Planning Proposal Submission (Refer to Enclosure 1) supported by an Economic Impact Assessment. Such Assessment importantly concluded that the Proposal will not result in an adverse impact on existing or proposed centres in Wyong and a view that the timing of new centres such as Wadalba East and Warnervale will also not be adversely affected.

Woolworths believe that the introduction of a second supermarket within an existing operational centre, such as Wadalba, will facilitate a broader choice for shoppers and generate competition in the marketplace, to the consumers' benefit. Furthermore, they believe other public benefits will accrue beyond the site boundaries, including improved accessibility and safety and parking within the broader precinct.

### THE PROPOSAL

The Planning Proposal Submission (rezoning application), submitted by Fabcot Pty Ltd, seeks to amend the existing planning controls under Wyong Local Environmental Plan 1991 to enable a second full-line supermarket, a petrol station and a specialty shop to be developed by Woolworths, in the Wadalba Village.

The subject site comprises approximately 1.5 ha of generally flat, vacant, sparsely vegetated land situated at the corner of the Pacific Highway and Figtree Boulevard, Wadalba. It also has frontage to Orchid Way and an "intervening" open storm water drainage channel. A relevant site plan/context plan is provided as Attachment 1. No direct access is available to the Pacific Highway. It is situated adjacent to an existing school and opposite an existing Coles Supermarket.



## **2.1 RZ/10/2012 - Rezoning to Permit Woolworths Supermarket, Petrol Filling Station and limited Specialty Shopping at Wadalba (contd)**

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More particularly, it is noted that the proposed supermarket would provide some 3,200 square metres of floor space, the specialty shop would be 80 square metres and the petrol station would comprise bays and a convenience store. Supplementary provision for approximately 200 at grade car parking spaces and complementary civil/drainage/landscape works is proposed.

It should be noted that a Concept Plan of the proposed development and its potential integration with the immediate neighbourhood was initially submitted and subsequently withdrawn by the Applicant. The withdrawal had regard to what is considered to be a narrow interpretation of Section 117 Direction 6.3, subclause (5) which states that “a planning proposal must not contain or refer to drawings that show details of the development proposal”.

Having had limited access to a former Concept Plan, as cited above, it is considered that the site has the capacity to accommodate development of the nature proposed.

Submission of a Concept Plan, post Gateway, is however considered to be fundamental to communicating (in simple layout terms/outline urban design principles) with the community and statutory authorities. Any such plan should clearly not be “tied” to any rezoning proposal, as would appear to be the underlying intent of the clause 6.3 (5). It could, however, inform a future Development Control Plan amendment, with potential implications for the immediate precinct particularly in terms of enhanced accessibility, stormwater management and the public domain generally.

### **REVIEW OF THE PROPOSAL**

The Draft Planning Proposal has been reviewed in the context of:

- \* The Central Coast Regional Strategy: 2006-2031.
- \* The North Wyong Shire Structure Plan, 2012.
- \* Draft Review of Wyong Retail Centres, 2012.
- \* Wyong Local Environmental Plan, 1991.
- \* Draft Wyong Local Environmental Plan, 2012.
- \* Wyong Development Control Plan, 2005.
- \* Draft Wyong Development Control Plan, 2012.
- \* The accompanying Economic Impact Assessment.
- \* Section 117 Ministerial Directions.
- \* State Environmental Planning Policies.
- \* Council’s relevant corporate planning strategies and policies.

## **2.1 RZ/10/2012 - Rezoning to Permit Woolworths Supermarket, Petrol Filling Station and limited Specialty Shopping at Wadalba (contd)**

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### **Current Planning Provisions**

The land is currently zoned 2(e) (Urban Release Zone) under Wyong Local Environmental Plan, 1991. In accordance with the relevant provisions, the proposed development which includes a “large scale retail establishment and service station” is precluded by the subject zoning.

Further, Clause 59 enables certain forms of retail development including one local Shopping Centre at Wadalba. Development is also limited to 1,000m<sup>2</sup>; it being noted that a 1,500m<sup>2</sup> Coles supermarket currently exists. Accordingly, the presence of an existing supermarket “local shopping centre” precludes the proposal.

### **Proposed Planning Provisions-Draft Wyong LEP, 2012 (DWLEP, 2012)**

The recently exhibited DWLEP, 2012 proposes to zone the subject land and surrounding land R2 – low density residential. Shops are limited to 125m<sup>2</sup> in the form of neighbourhood shops, whilst service stations are prohibited, thereby precluding the Proposal. The adjoining Coles Supermarket and specialty shops are proposed to be zoned B2 – Local Centre.

### **Development Control Plan 2005: Chapter 49 – Warnervale East/Wadalba North West and draft Wyong, DCP, 2012**

The subject chapter includes a Masterplan and design requirements which are over a decade old and have in some respects “fallen short” of delivering the envisaged outcomes. In particular the Village Core has not evolved as envisaged, nor the projected higher density housing forms. The precinct is dominated by vehicle movements and some level of pedestrian conflict together with infrastructure that contributes little to the quality of the public domain.

Draft Wyong Development Control Plan, 2012-Section 6.17 has significantly improved these provisions, but some minor refinements to support the progression of the Planning Proposal are required.

The rezoning will expand the size of the retail centre from a “neighbourhood” to “village” centre due to the increase in retail floor space. It is important that the proponent demonstrates how the proposal will be integrated and connected to adjoining development eg. Coles supermarket, specialty retail shops, Wadalba High School and drainage channels.

Submission of supporting Urban Design Guidelines to enable Council to make revisions to DCP 2012 – Section 6.17 will be required. This will need to be publicly exhibited with any rezoning proposal. The proposal should make a positive contribution towards the public domain and address pedestrian connectivity issues between different land uses outside of the area. No information has been submitted to demonstrate how the proponent will address urban design, public domain and landscape treatment issues. The site is also on the corner of Figtree Boulevard and Pacific Highway which is a visually prominent site. There is a need to ensure that the site is treated with the appropriate landscaping and/or public art/signage to establish a high quality entry statement for this significant site.

## **2.1 RZ/10/2012 - Rezoning to Permit Woolworths Supermarket, Petrol Filling Station and limited Specialty Shopping at Wadalba (contd)**

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### **Central Coast Regional Strategy 2006-2031**

The Plan represents the long term landuse plan for the region comprising Wyong Shire and Gosford City and contains a series of policies and actions designed to cater for the Region's projected housing and employment growth over the period to 2031.

The Proposal is considered to be consistent with the Strategy and particular the identification of Wadalba as a Village (refer below).

Additionally, the Proposal has the potential to be consistent with the principles of Integrated Landuse and Transport (Action 4.21) and is situated within a Centre (Action 5.11).

### **The North Wyong Structure Plan, 2012**

This Plan identifies where and when development is planned to occur and ensures sufficient land exists to meet regional housing and employment targets. In this context Wadalba is identified as a "Village" and is expected to provide for a group of shops and services for daily shopping (as defined in the Sydney Metropolitan Strategy).

The growth of the Wadalba Centre in response to the Proposal is not considered likely to prejudice the ultimate establishment of a centre at Wadalba East nor the program for development of the Warnervale Centre. Further, it will support the emerging local residential communities.

### **Draft Review of Retail Centres, 2012**

A review of Council's current Retail Centre's strategy was undertaken by Don Fox Planning 2012 and is currently in draft form for Council's consideration.

The Draft Report concluded that there are significant opportunities to expand the supply of retail floorspace within Wyong Shire's retail network including the Northern areas of the Shire. More specifically, the Draft Report concluded there was capacity for the Wadalba Centre to expand in the short term. Council's consultant assessed the impact of an additional 2,000m<sup>2</sup> of retail floorspace from a new supermarket and 500m<sup>2</sup> of specialty retail shops at the Wadalba centre Don Fox concluded that this may be supportable after 2016. Whereas, the proposal by Woolworths involves 3,200m<sup>2</sup> of supermarket retail floorspace and 80m<sup>2</sup> of specialty retail floorspace.

It is recommended that Don Fox Planning be engaged (at the Proponents expense) to review the proponents conclusions in the light of these differences and also undertake a peer review of the submitted Economic Impact Statement. This work need not occur prior to referral of a relevant Planning Proposal to the DOP&I for a Gateway Determination. However, it will be required prior to the commencement of public exhibition.

### **Economic Impact Assessment, January, 2013 (compiled by the Applicant)**

The Proposal is accompanied by an Economic Impact Assessment which was commissioned by the Proponent.

The Assessment concluded that the proposed additional supermarket floorspace will not negate the proposed Wadalba East Village Centre or Warnervale District Centre, or

## **2.1 RZ/10/2012 - Rezoning to Permit Woolworths Supermarket, Petrol Filling Station and limited Specialty Shopping at Wadalba (contd)**

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unreasonably affect any other existing retailing. Other salient conclusions are reproduced in Attachment "2".

### **Section 117 Directions**

The proposal has been assessed on a preliminary basis against the Section 117 Ministerial Directions. The assessment is summarised in Attachment 3 of this report.

The final consistency of the proposal against a number of S117 Directions is subject to the outcomes of additional investigations, should the proposal be supported by Council and the Gateway.

### **State Environmental Planning Policies**

The proposal has been assessed having regard for relevant State Environmental Planning Policies (SEPP). The assessment in full is summarised in Attachment 4 of this report.

## **OPTIONS**

### **Option 1 – Progression of Proposal as Proposed**

This report recommends preparation of a Planning Proposal and referral to Department of Planning and Infrastructure for a Gateway Determination.

The delayed completion of additional work is not considered likely to be prejudicial to the logical advancement of the Planning Proposal and will facilitate a Gateway Determination prior to the commitment of additional resources.

Accordingly, this option is recommended.

### **Option 2 – Delay Progression until Additional Information/Investigative Studies Completed**

As an alternative to Option1, Council could request the Economic Impact Assessment Peer Review, Urban Design Guidelines, final contamination analysis, DCP Amendment and Section 94 review be undertaken by the Proponent prior to a Planning Proposal being forwarded to the DoPI for consideration.

This would expose the proponent to increased resourcing in the absence of a Gateway Determination.

This option is therefore not recommended.

### **Option 3 – Refuse to Progress the Proposal**

A review of a decision to refuse the Proposal (triggered by the applicant), pursuant to the review provisions of the EP&A Act, would likely lead to a positive Gateway decision to advance the Planning Proposal.

The utilisation of planning resources in the review process could be better devoted to advancing the Proposal.

## **2.1 RZ/10/2012 - Rezoning to Permit Woolworths Supermarket, Petrol Filling Station and limited Specialty Shopping at Wadalba (contd)**

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This option is not recommended.

### **STRATEGIC LINKS**

#### **Long term Financial Strategy**

Under the Financial Strategy, it is essential that this Planning Proposal achieves the following funding arrangements:

1. To this point the processing of the rezoning application has been funded by fees lodged for Phase 1 Rezoning Applications in accordance with Council's Annual Plan – Fees and Charges.

Further costs of processing the application are able to be satisfied through establishing a funding agreement with the developer prior to the application reaching the next stage of assessment in accordance with Council's Planning Proposal Procedure.

2. The development is to contribute to the cost recovery or funding of any services and or facilities occasioned by the development. This is expected to be satisfied through existing developer contribution plans.
3. Any new transport, water or sewer services infrastructure, required to service the development that is not identified in an existing contribution plan, is to be fully funded by the developer.
4. Development should optimise cost recovery for services and facilities (water, sewer, drainage, waste) through rate and annual levy charges. This is a development design consideration addressed at development application stage.
5. New assets required to service the development should be minimised as far as possible, without compromising quality or sustainability outcomes.
6. The proposal should demonstrate and achieve net community benefits.

#### **Asset Management Strategy**

The ongoing maintenance of water supply services, sewerage services, drainage services and stormwater management are funded through annual charges levied by Council. The location of the site, facilitates future development utilisation of existing major infrastructure of roads, sewerage treatment and water supply. Any augmentation/"lead in" costs shall be met by the developer.

#### **Workforce Management Strategy**

To this point the rezoning application has been processed by Council staff and funded by the developer in accordance with the requirements of Council's Strategic Plan. Future funding will also be in accordance with Council's Strategic Plan and subject to a Planning Proposal Funding Agreement between the applicant and Council.

## **2.1 RZ/10/2012 - Rezoning to Permit Woolworths Supermarket, Petrol Filling Station and limited Specialty Shopping at Wadalba (contd)**

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### **Link to Community Strategic Plan (2030)**

The Community Strategic Plan identifies 8 priority objectives, each supported by a range of actions. The level of consistency of the Planning Proposal is summarised as follows:

1. Communities will be vibrant, caring and connected.

The proposal seeks to add an extra dimension to local shopping and services for the immediate Wadalba and Warnervale communities. Increased informal community socialising will occur and shared visits to the centre.

2. There will be ease of travel.

The subject site is on a major bus route and directly accessible from the local collector road - Figtree Boulevard and local road – Orchid Way.

Opportunities for enhancing pedestrian and cycle movements in the immediate precinct will emerge in response to the Proposal.

3. Communities will have a range of facilities and services.

The proposal has the potential to increase the range of services and facilities available to the public as previously identified.

4. Areas of natural value will be enhanced and maintained.

The subject site has been extensively cleared in the past. Implementation of Water Sensitive Urban Design drainage practices as part of the Proposal will introduce a naturalistic element. Complementary landscaping will enhance the immediate biodiversity values.

5. There will be a sense of community ownership of the natural environment.

Not relevant

6. There will be a strong sustainable business sector.

The Proposal will immediately increase the vitality of the Centre. The Economic Impact Assessment prepared by the proponent concluded that trade impacts on other local supermarkets are likely to be short term and not considered a threat to the long term sustainability of an enhanced level mix of such facilities, particularly given local population projections. The significant short term construction employment and potential local materials sourcing will reflect positively in the local economy, and similarly permanent employment will have a positive economic impact.

7. Information and communication technology will be world's best.

While the proposal is unlikely to directly contribute to this objective, the proposed land uses will demand that suitable levels of communication technology are in place.

## **2.1 RZ/10/2012 - Rezoning to Permit Woolworths Supermarket, Petrol Filling Station and limited Specialty Shopping at Wadalba (contd)**

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8. The community will be educated, innovative and creative.

The proposal will provide employment and as a consequence workforce “supported” opportunities to pursue further education.

### **Budget Impact**

As referenced previously, the processing of the Planning Proposal is being funded by the developer in accordance with the requirements of Council’s Strategic Plan – Statement of Revenue Policy. The ongoing funding will be confirmed by the completion of a Planning Proposal Funding Agreement between Council and the applicant.

### **CONSULTATION**

The proposal was referred to a cross section of Council staff representing diverse interests.

Comments received have informed the assessment of the proposal and the need for additional supporting/investigative documentation.

Initial contact and communication with the Proponent has faltered with the Proponent pursuing a Pre Gateway Review for non determination of the Planning Proposal Submission as detailed below.

Future community and government agency consultation requirements will be outlined by the Gateway Determination, should a positive Gateway Determination be made.

### **GOVERNANCE AND POLICY IMPLICATIONS**

The processing of the Planning Proposal is being undertaken in accordance with Council’s adopted procedure.

Rezoning of the land is undertaken by preparing an amendment to the local environmental plan (currently Wyong LEP 1991) through progressing of a Planning Proposal under sections 55-59 of the Environmental Planning and Assessment Act 1979.

Section 55 requires Council to prepare a Planning Proposal that explains the intended effect of the amendment to the LEP and sets out the justification for the amendment. Section 55 specifies matters to be included in the Planning Proposal.

Section 56 provides that Council submit the Planning Proposal to the Minister (DoPI) for a Gateway Determination. DoPI will advise whether or not the matter should proceed (with or without variation), and may specify further studies or modifications to the Proposal, community and government agency consultation requirements and other matters.

The timing of the making of draft Wyong LEP 2012, which is in the Standard LEP format, will affect the Planning Proposal. It is anticipated that the Planning Proposal will form an amendment to Wyong LEP 2012.

## **2.1 RZ/10/2012 - Rezoning to Permit Woolworths Supermarket, Petrol Filling Station and limited Specialty Shopping at Wadalba (contd)**

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### **MATERIAL RISKS AND ISSUES**

Corporate risks to be addressed for the Planning Proposal are:

1. Infrastructure Provision:
  - a. Ensure future development of the land is subject to existing Contribution Plans,
  - b. Ensure any new infrastructure required to service the development is funded by the developer or able to be recovered through developer contributions (depending whether infrastructure is already identified in Contributions Plan/s, or the Contributions Plan/s require updating).
2. Service Capacity
  - a. Ensure existing water and sewer headworks and mains have capacity to cater for the increased load, and identify any necessary upgrades required,
  - b. Ensure any upgrades are funded by the developer,
3. Sustainability
  - a. Ensure stormwater/drainage infrastructure embraces principles of Water Sensitive Urban Design and is designed to cater for increased storm intensities predicted to occur as a result of climate change,
4. Political
  - a. Ensure the community consultation process is open and transparent,
  - b. Ensure Councillors are adequately briefed,
5. Certification/Governance
  - a. Ensure appropriate consultation with other levels of government during the consultation phase,
  - b. Ensure legislative procedures for Planning Proposals are followed. (Refer also to Pre Gateway Review below)
6. Asset Management
  - a. Assess long term maintenance requirements and renewal costs of proposed new assets and the capacity for rate/levy income from future development to fund these costs.

### **PRE GATEWAY REVIEW**

The Applicant submitted a pre-Gateway review request to the Minister for Planning and Infrastructure on 25 February 2013 in response to Council's non determination of the subject Planning Proposal within 90 days of lodgment.



## **2.1 RZ/10/2012 - Rezoning to Permit Woolworths Supermarket, Petrol Filling Station and limited Specialty Shopping at Wadalba (contd)**

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Council was invited by the Department of Planning and Infrastructure on 27 March, 2013 to provide its views about the Proposal and/or an account of why the Proposal had not been progressed.

A copy of Council's response forms Attachment "5".

In brief, Council communicated that the Planning Proposal from the date of lodgment has had a range of information deficiencies which were addressed on 7 February, 2013 and 14 April, 2013.

A Peer Review of the Economic Impact Assessment and preparation of Urban Design Guidelines remain outstanding but can be deferred until the exhibition/consultation phase. Similarly, a DCP Chapter amendment, Developer Contribution Plan amendment and more rigorous contamination investigations were noted to be requirements prior to the finalisation of the rezoning proposal.

It is understood that the Pre Gateway Review process is continuing concurrently with Council's advancement of the Planning Proposal.

### **CONCLUSION**

This report seeks Council's endorsement to prepare and submit to the DoPI, a Planning Proposal for a site which is adjacent to the Wadalba Village Centre.

The proposal for a further supermarket and limited specialty shopping and a service station will provide enhanced local access to goods and services, the prospects of an enhanced public domain significant short term and permanent employment opportunities is supported.

### **ATTACHMENTS**

<b>1</b>	Site Plan/Context Plan	D03382376
<b>2</b>	Economic Impact Assessment Observations/Conclusions (Location, January, 2013)	D03375928
<b>3</b>	Section 117 Direction Overview	D03376025
<b>4</b>	State Environmental Planning Policy Overview	D03375963
<b>5</b>	Pre Gateway Review Response	D03375901
<b>6</b>	Planning proposal prepared by TPG - WLEP Wyong LEP 1991 - Woolworths - 1 Figtree Blvd WADALBA - RZ/10/2012	Enclosure D03262301



**Economic Impact Assessment Observations/Conclusions**

(Location, January – 2013)

Salient observations/conclusions included:

- The development will result in a significant improvement in the range of food and grocery supermarket facilities that will be available to residents, improving choice of location and also allowing for price competition.
- Residents of the region will be provided with a wider range of affordable and conveniently located food and grocery facilities in close proximity to their homes.
- The development will result in reduced travel times and fuel costs for the surrounding population.
- The development will create additional employment, both during the construction period, and more importantly, on an ongoing basis once the project is completed and operational.
- The development will strengthen Wadalba Village as the major food and grocery destination for Wadalba residents, preventing the need to fragment the retail offer.
- It is concluded that the combination of the substantial positive economic impacts from the proposal, serve to more than offset the trading impacts that could be anticipated for a small number of the existing retail stores in the region, particularly the high performing supermarkets. Further, the impacts would not threaten the viability of any of these retailers or centres.

	NR: Not Relevant C: consistent JI: Justifiably Inconsistent			
No.	S.117 (2) Directions	NR	C	JI
<b>1.</b>	<b>Employment &amp; Resources</b>			
1.1	Business and industrial Zones		√	
1.2	Rural Zones	√		
1.3	Mining, Petroleum Production and Extractive Industries	√		
1.4	Oyster Aquaculture	√		
<b>2</b>	<b>Environment &amp; Heritage</b>			
2.1	Environmental Protection Zones	√		
2.2	Coastal Protection	√		
2.3	Heritage Conservation		√	
2.4	Recreation Vehicle Areas	√		
<b>3</b>	<b>Housing, Infrastructure and Urban Development</b>			
3.1	Residential Zones		√	
3.2	Caravan parks and Manufactured Home Estates	√		
3.3	Home Occupations	√		
3.4	Integrating Land Use and Transport		√	
3.5	Development Near Licensed Aerodromes	√		
<b>4</b>	<b>Hazard and Risk</b>			
4.1	Acid Sulphate Soils	√		
4.2	Mine Subsidence and Unstable Land		√	
4.3	Flood Prone Land	√		
4.4	Planning for Bushfire Protection	√		

<b>5</b>	<b>Regional Planning</b>			
5.1	Implementation of Regional Strategies		√	
5.2	Sydney Drinking Water Catchments	√		
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	√		
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	√		
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	√		
5.6	Sydney to Canberra corridor	√		
5.7	Central Coast	√		
5.8	Second Sydney Airport: Badgerys Creek	√		
<b>6</b>	<b>Local Plan Making</b>			
6.1	Approval and Referral Requirements	√		
6.2	Reserving Land for Public Purposes	√		
6.3	Site Specific Provisions		√	
<b>7</b>	<b>Metropolitan Planning</b>			
7.1	Implementation of the Metropolitan Strategy	√		

## State Environmental Planning Policy (including Relevant Deemed SEPPs) Overview

SEPP	Not Relevant	Justifiably Inconsistent	Consistent
SEPP No. 22 – Shops and Commercial Premises			√
SEPP No.55 – Remediation of Land			√
SEPP No.64 – Advertising and Signage			√
SEPP (Infrastructure) 2007			√
SEPP (Exempt and Complying Development Codes) 2008			√
SEPP No.44 Koala Habitat Protection			√



KC/Graham Pascoe/Scott Duncan  
RZ/10/2012

6 May 2013

The Executive Director  
Att: Mr McGaffin  
Rural and Regional Planning  
Department of Planning and Infrastructure  
GPO Box 39  
SYDNEY NSW 2011

Dear Mr McGaffin

**REQUEST FOR PRE GATEWAY REVIEW – WOOLWORTHS, CORNER PACIFIC HIGHWAY/FIGTREE BOULEVARD, WADALBA - RZ/10/2012**

I refer to your letter of 27 March, 2013 in respect of the abovementioned matter specifically inviting Council comment pertaining to the proposal and/or the reasoning as to why the original request to Council was not progressed.

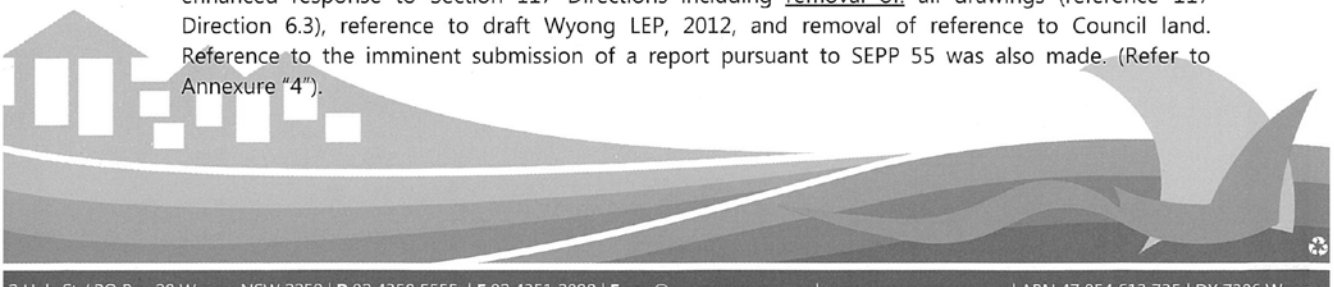
**Overview-Progress of Planning Proposal Submission**

A Progress Synopsis of the subject Planning Proposal is produced as Annexure "1". In summary a Planning Proposal was lodged with Council on 20 September, 2012 and was subject to a preliminary "Desk Top" review. Insufficient information was available to conclude such review.

In response Council sought to convene a meeting with the Applicant to discuss Council's preliminary review conclusions and develop a consensus strategy for advancement. Initial contact with the Applicant on 16 November, 2012 foreshadowed such a meeting. The meeting was eventually scheduled for 13 December, 2012 after some significant challenges in getting the consultant to attend a meeting at Council.

Brief background notes were prepared to inform the subject meeting and form Annexure "2". The conclusions arrived at the subject meeting formed an "Advancement Strategy" and were communicated to the Applicant on 19 December, 2012 (Refer to Annexure "3").

Numerous attempts to contact the Applicant to discuss progress in terms of the "Advancement Strategy" during January and early February, 2013 proved to be unsuccessful. On the 7 February, 2013 the Applicant contacted Council, acknowledging Council's attempted contact and furnished an amended Planning Proposal inclusive of; inter alia, a revised Economic Impact Assessment (EIA), an enhanced response to Section 117 Directions including removal of all drawings (reference 117 Direction 6.3), reference to draft Wyong LEP, 2012, and removal of reference to Council land. Reference to the imminent submission of a report pursuant to SEPP 55 was also made. (Refer to Annexure "4").





The removal of Plans is considered to represent a very narrow interpretation of Section 117 Direction 6.3 - Site Specific Provisions and is counterproductive to attempts to progress a relevant Planning Proposal, particularly in terms of reporting to Council and meaningful consultation with the State Agencies/Authorities and the Community. It is noted that the concept plans have also been removed from the revised Planning Proposal (received 7 February 2013) inclusive of the Traffic Report and Economic Impact Assessment (EIA).

In the preceding regard it is acknowledged that a Planning Proposal would not reference Site Specific Plans. Urban Design Principles would, however, be noted, together with the need to revise DCP 2005 – Chapter 49 Warnervale East and Wadalba North West Urban Land Release Area and prepare an amendment to the prevailing Section 94 Contribution Plan; the latter two which would need to be finalised before forwarding a relevant Planning Proposal to the Minister for finalisation as an LEP amendment.

Council also obtained a Fee Proposal from the author of its Retail Centres Review to conduct a peer review of the EIA and communicated the same to the Applicant on 8 March, 2013. Despite numerous requests in respect of its acceptability the Applicant has not responded.

On 14 April, 2013 the Applicant also furnished a Phase 1 Environmental Site Assessment Report (SEPP 55) which apart from identifying some potentially contaminated on-site stockpiles and dumped waste material was inconclusive in the absence of intrusive investigation. It was similarly inconclusive in respect of prevailing ground conditions generally in the absence of intrusive investigation methods. The limitations of the subject report are of a nature which would not prevent an initial Report to Council.

#### **Council Position**

Council has long held a view that the Planning Proposal seeking to amend prevailing planning provisions to ultimately facilitate development of a Supermarket, Service Station, limited specialty retailing and associated landscaping and support infrastructure is potentially "supportable" at Wadalba, subject to; independent economic review and appropriate urban design outcomes (in a site specific and neighbourhood integration context).

"The proposal is deemed to have merit, but further justification is required".  
(Council Background Notes – Meeting with Applicant and Proponent  
13 December 2012).

However, it is stressed that a formal decision of Council to support this rezoning is yet to be obtained and would still be required even if a positive "Gateway" determination is obtained.

After the meeting of 13 December, 2012 with the Applicant and Proponent it was considered that there was consensus and enthusiasm to proceed collaboratively to develop a relevant Planning Proposal in a timely manner, as detailed in the "Advancement Strategy" dated 19 December, 2012 (Refer to Annexure "3").

With the additional information submitted by the Applicant on 7 February, 2013 and 14 April, 2013 Council believes that it is nearing a position to be able to report the Planning Proposal to Council accompanied by a positive recommendation that a Planning Proposal (based on the substantive material supplied by the Applicant) be prepared and referenced to the Department for a Gateway Determination.



It is, however, considered fundamental that a concept layout plan depicting the proposal and its integration with the immediate precinct be submitted so as to inform the report to Council and foreshadowed Gateway Referral.

More detailed urban design guidelines, a peer review of the Economic Impact Analysis and more rigorous traffic impact analysis and contamination investigations although desirable could potentially be deferred to after a Gateway Determination. (Refer to Annexure "6").

More comprehensive urban design work, traffic impact analysis and contamination investigations could potentially be deferred and completed prior to community consultation.

### **Pre Gateway Review**

For non determination of the Planning Proposal indeed Council holds firmly to the view that it has only been in receipt of a substantive Planning Proposal since 7 February, 2013, and even now advocates the need for a Concept Layout Plan as a minimum. This being the case the 90 day time limit for Council determination is only now coming due on the date of this response.

Further, Council remains exceedingly disappointed, in the light of the meeting of 13 December, 2013 outcomes, that the Applicant and Proponent have taken the subject course of action which has only distracted from finalising submission of a relevant report to Council offering qualified endorsement of the Planning Proposal proceeding to a Gateway Determination.

### **Conclusion**

The subject Planning Proposal from the date of its lodgement has had a range of information inadequacies. A program for advancing a relevant Planning Proposal was documented on 19 December, 2012 after meeting with the Applicant and Proponent and was understood to represent a consensus view and provide a framework for collaboratively advancing a Planning Proposal.

The Applicant has proceeded to submit additional information on 7 February, 2013 and 14 April, 2013, but has removed all plans, plans considered essential to communicating the proposal to Council, the community and State Government Agencies/Authorities.

A satisfactory Peer Review of the accompanying Revised Economic Impact Assessment (funded by the Applicant/Proponent), together with appropriate Urban Design documentation for the site and its integration into the Wadalba Village Centre would enable Council to finalise the necessary documents to publicly exhibit the Planning Proposal.

It is noted that completion of the DCP Chapter amendment (including relevant data inputs) Developer Contribution Plan amendment, and more rigorous contamination investigation will be required before forwarding the Planning Proposal to the Minister for finalisation as an LEP amendment.

I trust this information enables the Department and Joint Regional Planning Panel to understand the progress of the subject Planning Proposal and the prospects of potential imminent Council support.

Should you require clarification of any of the foregoing please do not hesitate to initially contact Scott Duncan, Senior Strategic Planner, on 4350 5547 or Graham Pascoe, Contractor, on 02 4350 1302 (Thursday – Friday).

Yours sincerely

A handwritten signature in black ink, appearing to be 'MJ', with a long horizontal flourish extending to the right.

Martin Johnson  
**Acting Manager**  
**STRATEGIC DEVELOPMENT**

**ANNEXURE "1"****WOOLWORTHS PLANNING PROOSAL – WADALBA (RZ/10/2012)****(Progress Synopsis) as at 8/3/13**Lodgement

Planning Proposal lodged with Council (20/9/12)

Internal Referrals

Issued 16/10/12

Comments received October/November, 2012

Progress Update with Proponent Consultant

Foreshadowed meeting to discuss overview in December, 2012. (16/11/12)

Meeting Co-ordination

23/11/12

Meeting Between Council, Proponent and Proponent Consultant

13/12/12 (Refer to background briefing at Annexure "2")

Advancement Strategy

Strategy developed having regard to abovementioned meeting outcomes and issued on 19/12/12.

Focus on a collaborative approach. (Refer to Annexure "3" inclusive of Attachment "A")

Attempted Contact with Proponent Consultant

Numerous phone and email attempts to contact Proponent Consultant (acknowledged by Consultant):- mid/late January and February, 2013. (Refer to Attachment "3" pages 2 and 3)

Planning Proposal Amendment

Submission of amended Planning Proposal by Proponent's Consultant (7/2/13)

Principle amendments included:

- Revised Economic Assessment (EIA), removal of all plans, revised response to Section 117 Directions, update having regard to DWyong LEP, amended mapping and removal of reference to Council land.
- Foreshadowed submission of SEPP 55 Report.

(Refer to Annexure "4" Page 1)

Acknowledgment of Amended Documentation

Receipt of amended documentation communicated accompanied by advice feedback would be provided shortly.

Securing of a fee proposal for review of the EIA was communicated by Council.

Commitment by the Proponent to the suggested Design Workshop was questioned.  
(8/2/13)

Progress Update

Proponent consultant was advised that a proposal to review the EIA would be communicated shortly. Removal of all plans and "narrow" interpretation of 117 Direction 6.3 questioned by Council.

Question posed again in respect of commitment to design workshop. (22/2/13) (Refer to Annexure "5")

Proposed peer review of EIA submitted to Proponent Consultant for endorsement, together with requested response to email of 22/2/13 cited above. (8/3/13)

**ANNEXURE "2"****Woolworths Wadalba Shopping Centre Proposal**

*(Background Notes for meeting – 13 December 2012)*

**1.0 Introduction**

Several matters will need to be addressed to advance the Planning Proposal, generally they do not require final resolution before the report is submitted to Council. However work can commence on these pre "Gateway" to progress the rezoning in the event of a positive determination.

Some of the additional design work mentioned below will need to be undertaken collaboratively with Council.

**2.0 Strategic Context/Economic Impact**

- The accompanying economic assessment and peer review is dated (2009) and prepared in respect of a different proposal (2000m<sup>2</sup> supermarket, 500m<sup>2</sup> specialty shops, a service station).
- Further, Council's Draft Retail Strategy Review referring to the former proposal identifies the prospect of 2,000m<sup>2</sup> supermarket and 500m<sup>2</sup> of specialty shops as potentially supportable after 2016.
- The timing relationship relative to Woolworths Warnervale Town Centre commitment requires clarification, as to does the impact upon Lakehaven and potentially Wadalba East in particular.

**Actions**

- **Need for revised economic impact assessment, potentially via Council's current Retail Review.**
- **Consultant need for clarification of timing of proposal.**

**3.0 Urban Design/Masterplan**

- The site planning produces some on-site conflicts and challenges in respect of service infrastructure and integration with the broader neighbourhood; including
  - Suburb/Centre entry statement
  - Service vehicle conflicts on site.
  - Potential traffic queuing to enter service station.
  - Pedestrian vehicle conflicts.
  - Location of bus stop.
  - Interface with surrounding development.
  - Potential stormwater management
- The proposal also provides the prospect of contributing positively to revised masterplanning of the broader precinct.

**Actions**

- **Review design and better integrate with an enhanced precinct masterplan.**  
(Potentially undertake collaboratively with Council)

**4.0 Enhancement Opportunities**

The Proposal provides prospects of:

- Contributing to an enhanced precinct masterplan
- Implementation of water sensitive urban design practices.
- Upgraded integration with surrounding precinct, including alternative movement means.
- Exploring infrastructure rationalisation.

**Actions**

- **Examine opportunities to contribute towards enhanced urban outcomes.**

**5.0 Section 117 Directions**

A more rigorous review of Section 117 Directions and in particular:

- 1.1 Business and Industrial Zones
- 3.4 Integrating Landuse and Transport
- 4.2 Mine subsidence and Unstable Land
- 5.1 Implementation of Regional Strategies

**Actions**

- **Enhance commentary in respect of the above mentioned 117 Directions.**

**Other Issues**

- There are a number of traffic matters which require further clarification, at a future point in time including; interalia, revised traffic counts, modelling and manoeuvring.
- A Phase 1 Contaminated lands investigation should be undertaken at a future point in time.
- Revised development guidelines consistent with the new masterplanning outcomes will need to be addressed at a future point in time. These will be incorporated into DCP 2005 – Chapter 49 – Warnervale and Wadalba East Urban Land Release Area.

**Conclusion**

The proposal is deemed to have merit, but further justification is required. A collaborative masterplanning phase should potentially be commenced as a priority, but need not be finalised before reporting the Planning Proposal Submission to Council.

A limited number of additional (actions will also need to be undertaken to progress the Planning Proposal, both "pre Gateway" and "post Gateway).

**ANNEXURE "3"**



KC/Scott Duncan  
RZ/10/2012

19 December 2012

Att: Marian Higgins  
TPG  
PO Box 1612  
NORTH SYDNEY NSW 2059

Dear Marian

**RE: PLANNING PROPOSAL WOOLWORTHS, WADALBA RZ/10/12**

May we initially thank you for your attendance at the recent meeting to discuss Council's preliminary review of the subject Planning Proposal (PP) and the development of a collaborative approach for advancing the PP inclusive of the masterplanning of the immediate precinct.

The salient conclusions of the meeting are summarised as follows:

**The Proponents undertake**

- To prepare an updated Economic Impact Assessment (and Peer Review if desired) (End January, 2013).
- To fund a review of the revised assessment by Council's current Retail Planning consultant Don Fox Planning (Beginning February, 2013).
- To resource a Council/Proponent workshop on Council premises to advance the conceptual design and masterplanning of the immediate precinct to support the upgrading of the existing Wadalba 'neighbourhood' centre to a village centre.

**Note 1**

Council will provide a venue to meet which will include a cross-section of staff representing town planning/urban design, traffic/transport/accessibility planning, social planning, stormwater/hydraulic design. The Proponent will provide urban design/masterplanning, town planning, stormwater management traffic/transport/accessibility and project design expertise.

**Note 2**

- The subject conceptual design/masterplanning exercise does not need to be completed, prior to reporting the Planning Proposal to Council.
- Relevant Section 117 Directions need to be embellished as discussed at our meeting.
- Phase 1 Contaminated Lands investigation required prior to public exhibition of the Planning Proposal.

Additionally, the Proponents foreshadow a commitment to assist in resourcing reasonable requirements that may attach to a positive Gateway Determination.



**Council undertake**

- To refer the revised Economic Impact Assessment to Don Fox Planning for review (subject to Proponent funding).
- To target a report to Council for consideration of advancing the PP (subject to a positive statement from Don Fox Planning) in mid/late March, 2013.
- To address all relevant statutory matters to provide a planning framework to facilitate consideration of a relevant Development Application (excluding DCP amendment).
- To forward preliminary traffic review comments in respect of the current PP submission (Refer to Attachment "A").
- To check the designation of the drainage reserve.
- To facilitate forwarding the PP to the Department of Planning and Infrastructure for a Gateway Determination in a timely manner, in the event of a positive Council decision (a potential target date in April, 2013, all other things being equal, would appear to be reasonable).
- Additionally, Council foreshadows an amendment to the prevailing DCP, based on the Concept/Masterplanning work.

**Future Funding**

It is noted that the Phase 2 funding amounts to \$8,808.00 (equivalent of 60 hours) plus a bond of \$8,808.00. The Phase 3 funding is noted to be \$5,873.50 (equivalent of 40 hours) plus a bond of \$5,873.50.

You are further advised that in the event that the Phase 2 bond is not fully expended the residual value will be assigned to the Phase 3 payment and bond requirements.

At the project conclusion if all monies are not fully expended, a reconciliation will occur and reimbursement will occur. Should the progress instalments and bond not meet the full costs incurred by Council, additional time expended will be charged out in accordance with the prevailing fee in Council's adopted schedule of Fees and Charges.

A copy of Council's Funding Agreement will be provided early next year.

It should be noted that the preceding information, particularly indicative timeframes, has been provided in good faith.

Council looks forward to working with yourself and your client in a collaborative manner in pursuit of a mutually acceptable outcome.

Should you require clarification of any of the foregoing please do not hesitate to contact Mr Graham Pascoe on 4350 1302 in the first instance, or in Graham's absence myself on 4350 5547.

Yours sincerely

 19/12/2012  
Scott Duncan  
Senior Strategic Planner  
SUSTAINABILITY

## Transport Planning Comments on RZ/10/2012

1 Figtree Boulevard, Wadalba  
22 October 2012

1. The northern access to the petrol filling station is approximately 15 metres from the intersection of Pacific Highway and Figtree Boulevard. This access must be deleted as vehicles waiting to access the fuel pumps will most likely queue out of the site and possibly onto Pacific Highway. Council will not permit any access to the site within 50 metres of Pacific Highway.
2. The Traffic counts accompanying the report were undertaken on Friday afternoon and Saturday at midday. Council requires that traffic counts for these types of developments are undertaken for the morning and afternoon peak hours on a Thursday and for the morning Saturday peak hour. Council requires a copy of the raw traffic count data either electronically or in hard copy. It is to include traffic volume counts for a period of 1 week, which is to include the days of the intersection counts.
3. An intersection count is required at the intersection of Pacific Highway and Figtree Boulevard to confirm existing traffic movements to which traffic generated by the development can be added for modelling.

The Sidra modelling for the intersection of Pacific Highway and Figtree Boulevard should be calibrated for the existing (2012) by undertaking observations of queue lengths and delay in the morning and afternoon periods. The intersection is also to be modelled to include a 10 year projection of background traffic growth at 1.5% per annum, plus traffic generated by the proposed development. The Sidra modelling must use the existing traffic signal phasing arrangements. This information can be obtained from Roads and Maritime Services (RMS).

4. Council requires an electronic copy of the Sidra files for both the existing and future scenarios.
5. The eastern end of the southern carpark should be closed to prevent conflict between passenger vehicles and trucks manoeuvring in the loading dock.
6. Truck turning templates are required for the Figtree Boulevard/Orchid Way roundabout for the largest anticipated vehicle likely to access the development.
7. Turning templates are also required for vehicles egressing the east-west dock.
8. This re-zoning application must be referred to RMS for comment as the traffic generated by the development will have a direct impact on the efficiency of the traffic signals at the intersection of Pacific Highway and Figtree Boulevard.

Steve McDonald/Bob Burch  
Transport Planning Unit

**ANNEXURE "4"**

**Comber, Kristy**

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**From:** Marian Higgins <marian.higgins@tpgns.w.com.au>  
**Sent:** Thursday, 7 February 2013 1:19 PM  
**To:** Pascoe, Graham  
**Cc:** Duncan, Scott; Rumble Michael; Craig Schulman  
**Subject:** RE: Progress of Woolworths Planning Proposal -Wadalba-RZ/10/2012  
**Attachments:** 213 054 Wadalba PP - Final with Appendices.pdf; img-129155324-0001.pdf

Dear Graham,

Thanks for your emails and calls.

The final EIA has been issued – refer to Appendix C of the attached Planning Proposal.

Woolworths is in the process of obtaining a report to assist with addressing SEPP 55 and this will be issued as soon as it is available.

TPG has also adjusted the PP based on Council's feedback, specifically to address the S117 directions in more detail.

In doing so, it became apparent that S117 Direction 6.3 Site Specific Provisions (copy attached) at subclause (5) states:

“(5) A planning proposal must not contain or refer to drawings that show details of the development proposal.”

Therefore, the drawings have been removed from the PP, as have all references to DCP matters.

In addition, all references to the Council lot have been removed.

As the draft LEP has commenced exhibition, this is also referenced in relation to the site.

Mapping amendments have now been included at Appendix H.

Three hard copies are being sent in the mail tonight.

Regards,

---

**Marian Higgins**  
Director



Suite 1.02, 8 West Street North Sydney NSW 2060  
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**From:** Pascoe, Graham [mailto:GGPascoe@wyong.nsw.gov.au]  
**Sent:** Thursday, 7 February 2013 9:24 AM  
**To:** Marian Higgins  
**Cc:** Duncan, Scott  
**Subject:** FW: Progress of Woolworths Planning Proposal -Wadalba-RZ/10/2012

Dear Marian,

We are planning for the potential advancement of the subject Planning Proposal and need to be updated on your progress.

Please advise accordingly ,at your convenience.

Regards Graham

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**From:** Pascoe, Graham  
**Sent:** Thursday, 24 January 2013 11:52 AM  
**To:** 'Marian Higgins'  
**Cc:** Duncan, Scott  
**Subject:** FW: Progress of Woolworths Planning Proposal -Wadalba-RZ/10/2012

Dear Marian,

Any progress?

Regards Graham

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**From:** Pascoe, Graham  
**Sent:** Friday, 18 January 2013 9:35 AM  
**To:** 'Marian Higgins'  
**Cc:** Duncan, Scott  
**Subject:** Progress of Woolworths Planning Proposal -Wadalba-RZ/10/2012

Dear Marian,

Welcome back--I assume you are hard at it again.

Do you have any questions in respect of the 'Advancement Strategy" provided subsequent to our meeting late last year?  
or perhaps equally importantly how are you and your client progressing with your immediate actions?

Could you also please provide details of the Party (Proponent) who will be entering the Funding Agreement?  
( Name of entity and contact address,Name of empowered person/person authorised to sign and Title of such person.)

Should you require clarification of any aspect of this note please do not hesitate to contact me or in my absence Scott.

Regards Graham

\*\*\*\*\*  
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**ANNEXURE "5"**

**From:** Pascoe, Graham  
**Sent:** Friday, 22 February 2013 4:33 PM  
**To:** 'Marian Higgins'  
**Cc:** Duncan, Scott  
**Subject:** Woolworths Wadalba-Planning Proposal (RZ/10/2012)  
Dear Marian,

I refer to my recent email communication of 8 February,2013 in respect of the subject matter and wish to confirm that Council recently requested a Fee Proposal from Don Fox Planning to review the Amended Economic Impact Assessment.  
We will provide it to you when it is to hand.

We note in your covering advice and from our initial review of the Amended documentation that you have deleted the reference to your draft layout plan. Further your specialist consultants do not reference such a plan either.

Your interpretation of Section 117 Direction 6.3 and in particular subclause (5) is considered to be a particularly narrow interpretation.  
It is fundamental that a plan is attached to the Planning Proposal to enable Council to ,as a minimum,more fully communicate with Council and the community in simple spatial terms.  
It is not Council's intent to "tie" any potential rezoning to a particular plan,as would appear to be the underlying intent of subclause (5).  
It is,however,Council's intent to reference the need for a DCP amendment and indeed prepare same for concurrent exhibition with the Planning Proposal,should it be advanced.

Council would,however, like a response to the previously raised opportunity/desire for a design/masterplan workshop. Could you please respond accordingly?

Regards Graham



**ANNEXURE "6"****INFORMATION REQUIRED PRIOR TO EXHIBITION OF PLANNING PROPOSAL****1. Preparation of Urban Design Guidelines**

The proponent has been requested to prepare Urban Design Guidelines (preferably after consulting with nearby landowners through a stakeholder workshop). The rezoning will expand the Wadalba area from a 'neighbourhood centre' to a 'Village Centre' with the increase in retail floorspace. Council has offered to provide a venue for this to occur. It will be important for the proponent to demonstrate how the shopping centre can be integrated with nearby retail developments (e.g. nearby speciality shops, and existing Coles Supermarket), high school and existing/planned residential developments and drainage channels. This will require the development of supporting Urban Design Guidelines to enable Council to make revisions to DCP 2005 - Chapter 49. This will need to be publicly exhibited with any rezoning proposal and it is Council's expectation that the proposal will contribute towards the public domain and address pedestrian connectivity issues between different land uses outside of the area. No information has been submitted to demonstrate how the proponent will address urban design, public domain and landscape treatment issues. The site is also on the corner of Figtree Boulevard and Pacific Highway which is a visually prominent site. There is a need to ensure that the site is treated with the appropriate landscaping and/or public art/signage to establish a high quality entry statement for this significant site.

**2. Retail Review**

Council is in the process of conducting a Retail Centres Review for Wyong Shire by Don Fox Planning. There are some aspects where the proposal does not strictly meet the draft recommendations of the report in terms of timing and retail floorspace with the increase in floorpace proposed from 2,000m<sup>2</sup> to 5,300m<sup>2</sup>. To this end, Council requested a Peer Review of the Economic Impact Assessment and requested that this be funded by the Applicant/Proponent. A quote was obtained for this to be conducted for \$4,180 GST inclusive).

**NOTE:** It would be preferable to have the above mentioned information before seeking Council's support for the Planning Proposal, as it will be difficult to answer many reasonable questions that Councillor and the community might have about the proposal. However no objection is raised to the proposal proceeding to obtain a Gateway Determination providing that the above mentioned information is provided to Council prior to the Planning Proposal being publicly exhibited.

**3. Information required prior to finalisation of Draft LEP**

A more rigorous assessment of potential contamination pursuant to SEPP 55 shall be undertaken. The inclusion of appropriate intrusive techniques shall be employed in respect of the on-site stockpiles and dumped waste material and appropriate techniques in respect of the prevailing ground conditions. In the latter regard gross cover is not considered to be an impediment to a preliminary investigation.

## **2.2 RZ/13/2012 - Proposed Rezoning - 2-10 Cams Road, Summerland Point**

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TRIM REFERENCE: RZ/13/2012 - D03315580

MANAGER: Jari Ihalainen, Director Land Management

AUTHOR: Jenny Mewing; Strategic Planner

### **SUMMARY**

A proposal has been received to rezone Part (Pt) 200 DP 1181286 (2 – 10 Cams Boulevard, Summerland Point) from 5(a) Special Uses – Schools to enable residential development.

An assessment of the proposal has been undertaken, which identified that the proposal has merit 'in principle', and that Council should initiate the rezoning process by preparing a Planning Proposal and referring it to the Department of Planning and Infrastructure (DoPI) for a "Gateway" determination.

### **RECOMMENDATION**

- 1 That a Planning Proposal be prepared to amend Wyong Local Environmental Plan, 1991, (or pending timing, Wyong Standard Instrument Local Environmental Plan (SI LEP)) pursuant to Section 55 of the Environmental Planning and Assessment (EP & A) Act, 1979, for the residential development of Pt 200 DP 1181286, 2-10 Cams Boulevard, Summerland Point.**

***The Planning Proposal is to identify the need for additional studies (to be undertaken at the proponent's expense) relating to flora and fauna and contamination.***

- 2 That Council, forward the Planning Proposal to the Department of Planning and Infrastructure (DoPI) accompanied by a request for a "Gateway Determination", pursuant to Section 56 of the EP & A Act, 1979.**
- 3 That Council require, subject to the "Gateway Determination," the proponent enter into a Funding Agreement with Council in accordance with Council's Planning Proposal Procedure to recover the costs involved in further progressing the proposal.**
- 4 That Council authorise the General Manager (or delegate) to sign the Funding Agreement.**
- 5 That Council enter into a Voluntary Planning Agreement with the Proponent which requires:**
  - (a) The Proponent to undertake an assessment of the subject site utilising the Biobanking assessment methodology;**
  - (b) Sourcing and procurement of suitable credit land to offset the credits required as determined by the Biobanking assessment (Council may**

*assist in this);*

- (c) *The Proponent to undertake the translocation process for the site's **Tetratheca juncea** population (including associated monitoring and maintenance) to aid in furthering of the species for posterity;*
- (d) *The Proponent to cover any costs of Council (including costs associated with investigating, negotiating, sourcing and procuring suitable offset land);*
- (e) *The Proponent to develop a revised Wildlife Management Strategy (WMS) as required by Condition No. 17 of DA/1453/2010 (as amended). The revised WMS is to document:*
  - (i) *a suitable recipient site/s for the nest boxes currently located on Pt 200 DP 1181286;*
  - (ii) *Subject to this site/s being identified and necessary arrangements (i.e. purchasing/land holder agreement) being made, relocate the nest boxes and any associated fauna; and*
  - (iii) *Monitoring of the nest boxes in their new location to determine their usage and to carry out repairs or replacement (as required) every six months for a period of 3 years following erection.*

- 6 *That Council undertake community and government agency consultation, in accordance with the requirements attached to the "Gateway Determination".*
- 7 *That a further report be submitted to Council to report on results of community consultation.*

## **BACKGROUND AND CURRENT STATUS**

Pt 200 DP 1181286 (Attachment 1) was part of former Lot 1 DP 555602 and was in the ownership of the Department of Training and Education (DT&E) and intended for use as a future school site. It was identified as being surplus to the DE&T needs, and subsequently sold to the current owner in 2011. The site has an identified population of a state and federally endangered fauna species, *Tetratheca juncea*.

Former lot 1 has been the subject of two previous rezoning proposals. RZ/16/1996 was lodged in November 1996 and sought a rezoning of the site to 2(b) Multiple Dwelling Residential Zone. The rezoning was refused by Council's (then) Development Management Panel (DMP) in October 1998 on the basis that:

*'The regional distribution and conservation of **Tetratheca juncea** at this point in time is not sufficiently known to ensure its long term conservation. In this regard, development of the land for residential purposes will destroy the sites flora and fauna values which are thought to be significant'.*

## 2.2 RZ/13/2012 - Proposed Rezoning - 2-10 Cams Road, Summerland Point (contd)

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RZ/3/2001 was lodged in October 2001 by the DE&T and sought a rezoning of former Lot 1 DP 555602 to 2(a) General Residential, 7(a) Conservation and 5(c) Local Roads. The proposed 7(a) Conservation zone related to the current Pt 200, having regard for the populations of the threatened species *Tetratheca juncea* located on the site.

On 8 September 2004, Council *RESOLVED on the motion of Councillor WELHAM and seconded by Councillor PAVIER:*

- 1 *That a draft Local Environmental Plan be prepared to rezone Lot 1 DP 555602, 2-10 Cams Boulevard, Summerland Point from 5(a) (Special Uses – School) and part 5(c) (Special Uses – Local Road Reservation to part 2(a) (Residential), part 7(a) (Conservation) and part 5(c) (Local Road Reservation).*
- 2 *That the portion of Lot 1 DP 555602 which is required to protect the threatened species Tetratheca juncea be transferred to Council at no cost and the Local Environmental Plan not proceed beyond Section 65 until an appropriate legal agreement is reached in this regard.*
- 3 *That the General Manager be authorized to sign and seal any legal agreement or title documents associated with the transfer.*
- 4 *That the Department of Infrastructure, Planning and Natural Resources be advised of the decision.*
- 5 *That the Department of Infrastructure, Planning and Natural Resources be further advised that Council's delegate proposes to exercise the delegations under Section 65 and if appropriate, under Section 69 of the Environmental Planning and Assessment Act, 1979.*
- 6 *That the draft Local Environmental Plan be advertised and referred to appropriate authorities for comment.*
- 7 *That Council's Section 149 Certificates be noted.*
- 8 *That should no significant objections be received as a result of the exhibition, the Minister for Infrastructure, Planning and Natural Resources be requested to create the Local Environmental Plan.*

Stalled negotiations in preparing a legal agreement for the transfer of the 7(a) land resulted in DE&T applying for a Site Compatibility Certificate (SCC) in July 2010. The SCC was requested to permit low density residential uses (for the southern portion of former Lot 1), conservation of populations of the threatened species *Tetratheca Juncea* (northern portion of site) and local road reservation (far southern portion of site). The SCC was issued in September 2010 (Attachment 2) and the rezoning proposal was subsequently withdrawn by DE&T. Council's resolution of 8 September 2004 was not rescinded.

Development consent for DA/1453/2010 was issued in June 2011 for a 21 lot subdivision of Lot 1 DP 555602 for the creation of 20 residential lots and one residual lot to be dedicated to Council at no cost for conservation purposes. The amending consents DA/1453/2010/A and DA/1453/2010/B increased the number of lots from 21 to 24 and enabled benching of the lots along the western boundary of Lot 1 DP 555602 respectively.

## THE PROPOSAL

The current rezoning proposal seeks to rezone Pt 200 DP 1181286 from 5(a) Special Uses – School to 2(a) Residential or, pending timing of Council’s SI LEP, R2 Low Density Residential.

A successful rezoning outcome would enable the subdivision of the site for approximately 15 residential lots.

## ISSUES ANALYSIS

The planning proposal submission has been assessed having regard for the following matters:

- Flora and fauna;
- Bushfire;
- Climate Change;
- Natural Resources;
- Aboriginal Archaeology and European Cultural Heritage;
- Contaminated Land and Acid Sulfate Soils;
- Odour;
- Flooding and Drainage;
- Noise and Acoustics;
- Social Impact and Amenity;
- Servicing; and
- Economic Feasibility.

This assessment has identified that the rezoning of the site would enable logical residential infill development. Additionally, the assessment identified that retaining the site as a reserve could result in the site becoming a common thoroughfare for bicycles and be used for informal and usually unauthorised recreational purposes such as casual meeting places. This tends to create a range of impacts such as littering, antisocial behaviour and illegal dumping.

The assessment also identified the need for a number of additional studies, including a Stage 1 Contaminated Land assessment, and a targeted species survey for *Corunstylis sp.* Charmhaven (a recently listed endangered orchid), should the proposal be supported by the Gateway.

Despite the apparent suitability of the proposed land use, a number of barriers exist which are required to be resolved prior to the rezoning of the site, namely, the requirement for the site to be transferred into Council ownership, and the presence of *Tetratheca juncea*, a state and federally listed endangered species.

## Development Consent Requirements – DA/1453/2010 (as amended)

Subject to the conditions of DA 1453/2010 (as amended), the site is required to be transferred into Council ownership and included and managed as part of the Tunkawallin Management Reserve. The requirement for the transfer of the land to Council is the result of the 8 September 2004 resolution of Council in relation to RZ/3/2001. This resolution was not rescinded when RZ/3/2001 was withdrawn.

Council's Economic and Property Development Unit have advised that Council no longer has a need for the retention of the site, and funds for the management of such land are limited. There are currently no arrangements in place for the provision of funds by the Proponent to Council, either through the development application or rezoning process, for the management of the site in perpetuity as a conservation reserve. Furthermore, as advised by Council's Natural Resources and Open Space Units, the site has limited value as a conservation reserve in a local or even regional corridor context, despite the presence of *Tetratheca juncea*.

The consent for DA/1453/2010 (as amended) also required twenty-three (23) nest boxes to be installed within the site to offset the loss of hollows from loss of trees on former Lot 1 DP 555602. These nest boxes are to be monitored by the project ecologist every six months for three years. Any development of Pt 200 would require these boxes to be relocated elsewhere and the monitoring restarted.

### **Tetratheca juncea**

A number of flora and fauna surveys and assessments have been undertaken on the subject site between 1997 and 2010. An important aspect of these findings is the presence of *Tetratheca juncea* which is listed under both the Environment Protection and Biodiversity Conservation (EPBC) Act 1999 and the Threatened Species Conservation (TSC) Act, 1995.

As per the provisions of the EPBC Act, 1999, any action which is likely to have a '*significant impact*' on a listed species requires referral to the Commonwealth Department of Sustainability, Environment, Water, Populations and Communities (DSEWPaC). A '*significant impact*' is an '*impact which is important, notable, or of consequence, having regard to its context or intensity*'. The development of the site (including the removal of an entire population of *Tetratheca juncea*) could be considered important, notable, or of consequence. Therefore a referral would be required to be made to DSEWPaC. Additionally, approval could also be required to be sought at a Federal level.

Additionally, it is likely that a Species Impact Statement (SIS) will be required to be prepared under the provisions of the TSC Act, 1995.

The proponent proposes to use a 'Translocation Method' which involves relocating the populations to an alternative site. The DSEWPaC advise that translocation should be regarded as experimental and is not a recommended management technique. Should the rezoning be supported, it is recommended that the proponent further investigate providing biodiversity offsets, in consultation with Council, DSEWPaC and the Office of Environment and Heritage (OEH).

Whilst this report recommends proceeding with the rezoning, it is recommended that in addition to providing offsets for the destruction of the populations of *Tetratheca juncea* (subject to agreement with OEH and DSEWPaC), the proponent also undertake the translocation process (including associated monitoring and maintenance) to aid in furthering the knowledge of the species for posterity.

Additional and significant consultation between Council, the Proponent, OEH and the DSEWPaC will be required if the proposal is supported by Council.

**LOCAL PLANS, POLICIES AND STRATEGIES**

**Wyong Local Environmental Plan 1991 and Wyong Standard Instrument Local Environmental Plan**

The subject site is currently zoned 5(a) Special Uses – School under Wyong Local Environment Plan (LEP) 1991.

Council’s draft SI LEP proposes to zone the southern portion of former Lot 1 DP 555602 to R2 – Low Density Residential to reflect development enabled by the SCC and existing approvals. The draft SI LEP proposes to zone the Pt 200 as E2 – Environmental Protection, to reflect the intent of the current consent conditions of DA/1453/2010 (as amended).

The current rezoning proposal seeks to rezone Pt 200 DP 1181286 from 5(a) Special Uses – School to 2(a) Residential or, pending timing of Council’s SI LEP, R2 Low Density Residential.

**Development Control Plan (DCP) 2005: Development Controls for Wyong Shire & Draft DCP 2012: Development Provisions for Wyong Shire**

Any development of the subject site being undertaken as a result of the rezoning will be required to be consistent with relevant controls of DCP 2005, or pending timing of DCP 2012, in particular, the following Chapters:

<b>DCP 2005</b>	<b>DCP 2012</b>
- 61: Car Parking	- Chapter 2.1: Dwelling Houses and Ancillary Structures
- 66: Subdivision	- Chapter 2.3: Dual Occupancy Development
- 67: Engineering Requirements for Development	- Chapter 2.11: Parking and Access
- 69: Controls for Site Waste Management	- Chapter 3.1: Site Waste Management
- 58: Dual Occupancy Development	- Chapter 3.2: Water Sensitive Urban Design
- 100: Quality Housing	- Chapter 3.3: Floodplain Management
- 99: Building Lines	
- Draft Chapter 97: Water Sensitive Urban Design	

## STATE ACTS, PLANS, POLICIES AND STRATEGIES

### Central Coast Regional Strategy (CCRS) 2006

The Central Coast Regional Strategy (CCRS) was released by the Department of Planning & Infrastructure (DoPI) in July 2008. The CCRS identifies the population potential of the Central Coast expected over the next 25 years, and expected employment capacity targets. The strategy also identifies actions to ensure ongoing growth and prosperity of the region, including actions for centres and housing, economy and employment, environment and natural resources, natural hazards, water supply, regional infrastructure and regional transport.

Whilst the proposal will not generate a significant number of dwellings, it will contribute to achieving the overall dwelling target set by the Strategy.

### North Wyong Shire Structure Plan (NWSSP) 2012

A desktop mapping exercise has identified that the site is located north of the boundary of Precinct 20 of the NWSSP area. Precinct 20 is identified as a long term land release area for residential purposes.

Whilst the development of Pt 200 is a logical infill development, it is also a logical extension of the boundary of Precinct 20.

### Regional Economic Development and Employment Strategy (REDES) 2010

The Regional Economic Development and Employment Strategy (REDES) is a partnership between the NSW Government, Regional Development Australia Central Coast (RDACC), Gosford City Council and Wyong Shire Council. The launch of the strategy occurred on 3 February 2010.

Whilst not directly employment related, the proposal may have a small positive impact on local employment through construction of new dwelling houses.

### Section 117 Directions

The proposal has been assessed against relevant Section 117 Ministerial Directions (Attachment 3).

The consistency of the proposal against a number of s117 Directions is subject to the outcomes of a number of additional studies and further consultation with state and federal Departments regarding *Tetratheca juncea* on site, should the proposal be supported by Council and the Gateway.



### **State Environmental Planning Policies**

The proposal has been assessed having regard for relevant State Environmental Planning Policies (SEPPs). The assessment in full is contained within Attachment 4 of this report.

It is considered that the proposal can be consistent with SEPP 55 – Contaminated Land, provided further investigative studies are undertaken in relation to this issue.

### **OPTIONS**

#### **Option 1 – Progression of Proposal as Proposed**

This report recommends additional investigative studies are undertaken relating to flora and contaminated land. Presently, it is proposed that such studies are delayed until a Gateway Determination to proceed with the progression of the proposal is received.

In order to provide some level of development and financial certainty for the Proponent, prior to the outlay of funds for these studies to be undertaken, this option is recommended.

#### **Option 2 – Delay Progression until Additional Investigative Studies Completed**

As an alternative to Option 1, Council could request the additional investigative studies to be undertaken by the Proponent prior to a Planning Proposal being forwarded to the DoPI for consideration.

This would result in the potential outlay of funds and time by the Proponent without any certainty being available as to the potential outcomes.

This option is not recommended.

#### **Option 3 – Refuse to Progress the Proposal**

Provided the Proponent can negotiate a successful outcome with state and federal departments regarding the *Tetratheca juncea* on the site, the rezoning of the site will enable logical residential infill development to occur.

This option is not recommended.

### **STRATEGIC LINKS**

#### **Wyong Shire Council Strategic/ Annual Plan**

The proposal is consistent with Wyong Shire Council's Strategy Annual Plan.

#### **Long term Financial Strategy and Asset Management Strategy**

### **STRATEGIC LINKS**

#### **Wyong Shire Council Strategic/ Annual Plan**

The proposal is consistent with Wyong Shire Council's Strategy Annual Plan.

### **Long term Financial and Asset Management Strategies**

The site is currently required to be transferred into Council ownership as per the conditions of DA/1453/2010 (as amended). This will result in the need for the provision of ongoing funding for the management of the site.

In the instance that the site is not rezoned as a result of the proposal being refused by Council, the Gateway or other government agencies, it is likely that the land will be transferred into Council ownership. Funding for the management of the site will need to be sourced.

If the rezoning proceeds, the Proponent proposes an amendment of the current conditions of consent to remove the requirement for the site to be transferred into Council ownership. This removes the financial implications for the management of the site from Council.

### **Workforce Management Strategy**

There are no impacts on the Workforce Management Strategy.

### **Link to Community Strategic Plan (2030)**

The assessment of the proposal is an Environment and Land Use Principal Activity which includes *enhancing the natural and built environment on both private and public land. This is done by providing strategic planning and policy as well as controls over land-use in order to maintain a high quality of life and natural environment. Through this activity Council seeks to promote sustainable use of natural resources on the Central Coast.*

The proposal is inconsistent with the following objective:

4. *Areas of natural value in public and private ownership will be enhanced and retained to a high level in the context of ongoing development*
  - (a) *Preserving threatened and endangered species as well as ecological communities and biodiversity*

as it proposes the destruction of a state and federally listed endangered species.

### **Budget Impact**

There are no immediate budget impacts, as progress of the Planning Proposal is being funded by the requisite accompanying Phase 1 fee. Further assessment work conducted by Council will be funded by the proponent.

Should the proposal not be supported, Council will be required to take ownership of the site as per the consent conditions of DA/1453/2010 (as amended). This will result in the need for the provision of ongoing funding for the management of the site.

## CONSULTATION

The proposal was referred to the following internal Council units for comment:

- Community and Cultural Development – Social Planning
- Development Assessment - Design Engineering
- Development Assessment – Development Applications
- Development Assessment – Ecology
- Economic and Property Development – Land Ownership
- Strategic Development – Ecology
- Strategic Development - Bushfire
- Strategic Development – Transportation Engineering
- Strategic Development – Planning
- Strategic Development – Section 94
- Water and Sewer Planning
- Waterways Strategy – Flooding and Hydrology

Those comments received were utilised to assess the proposal and determine the need for additional investigative studies.

## GOVERNANCE AND POLICY IMPLICATIONS

Refer to discussion relating to Local Plans, Policies and Strategies

## MATERIAL RISKS AND ISSUES

The assessment of the proposal has been undertaken having regard for the requirements of relevant and current legislation, regulations, assessment/survey methodologies, mapping and modelling (including available baseline information), demographics and best practices.

The recommendations for the Proponent to undertake further additional investigative studies reduce Council's liability in those areas.

## CONCLUSION

The rezoning of Pt 200 DP 1181286 to enable 15 additional dwelling lots is a logical infill development. It is considered that the development for this purpose is consistent with relevant state and local strategies and plans, and the necessary infrastructure to support the works and additional population is readily available and accessible.

The primary barrier to the rezoning of the site is the presence of *Tetratheca juncea*, a state and federally listed endangered species. It is considered however that the value of the site as a conservation reserve in a local or even regional corridor context, despite the presence of this species, is limited. Furthermore, given the surrounding residential development, the site has the potential to become a site for antisocial behaviour.

Both the above issues place a significant management burden on Council, should the site be transferred into Council as currently required.

**2.2 RZ/13/2012 - Proposed Rezoning - 2-10 Cams Road, Summerland Point  
(contd)**

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Additional and significant consultation with the Proponent, OEH and the DSEWPaC, and agreement for the rezoning of the site for development purposes may be difficult to achieve, however, it is deemed to have enough merit to pursue at present.

Having regard for the above it is recommended that a Planning Proposal is prepared and forwarded to the Gateway for a decision. The Proposal will need to identify the need for additional investigative studies to be undertaken by the Proponent prior to community consultation, in addition to agreements to be reached between Council, the Proponent, OEH and DSEWPaC regard regarding the *Tetratheca juncea* on site.

**ATTACHMENTS**

1	Locality Plan	D03317081
2	Site Compatibility Certificate	D03317076
3	Section 117 Direction Assessment	D03317078
4	State Environmental Planning Policy Assessment	D03317080



9/04/2013 jimewing

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### MAP EXTRACT

Scale 1:2500

Note: Data is not survey accurate.  
Scale is representation only.

Projection: Transverse Mercator  
Projected Co-Ordinate System: GDA\_1994\_MGA\_Zone56  
Geographic Co-Ordinate System: GCS\_GDA\_1994

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Michael Whittaker  
General Manager







## Planning

**Additional Uses on State Land**  
**Determination of Certificate of Site Compatibility**  
Division 2 Part 2 of *State Environmental Planning Policy (Infrastructure) 2007*

I, the Director General of the Department of Planning, pursuant to clause 19(5) of the *State Environmental Planning Policy (Infrastructure) 2007*, determine the application made by Landcom on behalf of the NSW Department of Education and Training on 2 August 2010 by issuing this certificate.

For the purposes of obtaining consent to development referred in clause 18(3), I certify that in my opinion, the development of the site described in Schedule 1:

- is compatible with the surrounding land uses, having had regard to the matters specified in clause 19(6); and
- is not likely to have an adverse effect on the environment and does not cause any unacceptable environmental risks to the land.

*Sam Haddad*

Sam Haddad  
**Director General**  
**Department of Planning**

**Date certificate issued:** 13 / 9 / 2010 .

**Please note:** This certificate will remain current for 5 years from the date of issue.

### SCHEDULE 1

**Site Description:** Part Lot 1 DP 555602, former Summerland Point Public School site, 2-10 Cams Boulevard, Summerland Point, Wyong Local Government Area.

**Application made by:** Landcom on behalf of the Department of Education and Training.

**Project description:** Development of the former Summerland Point Public School site to allow the uses permitted on the adjoining lands zoned 2(a) Residential to be permitted on the southern 1.86 hectares of the site.

Direction	Comment
Employment & Resources	
1.1 Business & Industrial Zones	
<p>Aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones and to support the viability of identified strategic corridors.</p> <p>Applies when a planning proposal affects land within an existing or proposed business or industrial zone.</p>	<p>Not Applicable.</p> <p>The proposal does not affect land within an existing or proposed business or industrial zone.</p>
1.2 Rural Zones	
<p>Aims to protect the agricultural production value of rural land.</p> <p>Applies when a planning proposal affects land within an existing or proposed rural zone.</p>	<p>Not Applicable.</p> <p>The proposal does not affect land within an existing or proposed rural zone.</p>
1.3 Mining, Petroleum Production and Extractive Industries	
<p>Aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</p> <p>Applies when a planning proposal would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or restricting the potential of development resources of coal, other mineral, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</p>	<p>Applicable.</p> <p>The subject site is located within the Swansea North Entrance Mine Subsidence District.</p> <p>Whilst it is unlikely that future resource extraction will impact the site, additional surface development limitation requirements may be applicable from the Mine Subsidence Board (MSB)</p> <p>The proposal is considered to be consistent with this Direction, subject to this consultation occurring.</p>
1.4 Oyster Aquaculture	
<p>Aims to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered, and to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and the health of oysters and consumers.</p> <p>Applies when a planning proposal could result in adverse impacts on a Priority Oyster Aquaculture</p>	<p>Not Applicable.</p> <p>The Planning Proposal is not located in Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area as identified in the <i>NSW Oyster Industry Sustainable Aquaculture Strategy</i> (2006)</p>

Direction	Comment
<p>Areas or current oyster aquaculture lease in the national parks estate or results in incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or current oyster aquaculture lease in the national parks estate and other land uses.</p>	
1.5 Rural Lands	
<p>Aims to protect the agricultural production value of rural land; and facilitate the orderly and economic development of rural lands for rural and related purposes.</p> <p>Applies to local government areas to which State Environmental Planning Policy (Rural Lands) 2008 applies and prepares a planning proposal that affects land within an existing or proposed rural or environment protection zone.</p>	<p>Not Applicable.</p> <p>This direction does not apply to the Wyong LGA.</p>
Environment & Heritage	
2.1 Environmental Protection Zones	
<p>Aims to protect and conserve environmentally sensitive areas.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p>	<p>Applicable.</p> <p>Whilst the site is zoned 5(a) Special Uses – School under Wyong LEP 1991, Council's draft SI LEP proposes to zone the subject site to E2 – Environmental Conservation, due to the presence of <i>Tetratheca juncea</i>.</p> <p>Subject to endorsement by Council and the Gateway, referral to DSWEPaC and OEH will be required.</p> <p>The proposal is not currently consistent with this Direction.</p>
2.2 Coastal Protection	
<p>Aims to implement the principles in the NSW Coastal Policy.</p> <p>Applies when a planning proposal applies to land in the coastal zone as defined in the <i>Coastal Protection Act 1979</i>.</p>	<p>Applicable.</p> <p>The proposal has been identified as being within the Coastal Zone.</p> <p>The proposal seeks a zoning amendment to Wyong LEP 1991 or Council's SI (timing dependant). Given these plans are consistent with the principles with the NSW Coastal Policy; it is considered that this proposal is consistent with</p>



Direction	Comment
	this Direction.
2.3 Heritage Conservation	
<p>Aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p>	<p>Applicable.</p> <p>The proposal does not identify an impact on any European or Indigenous heritage items or objects. It is therefore considered that the proposal is consistent with this Direction.</p>
2.4 Recreational Vehicle Areas	
<p>Aims to protect sensitive land or land with significant conservation values from adverse impacts from recreational vehicles.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p>	<p>Applicable.</p> <p>The proposal does not seek to enable development for recreational vehicle use. It is therefore considered that the proposal is consistent with this Direction.</p>
Housing, Infrastructure and Urban Development	
3.1 Residential Zones	
<p>Aims to encourage a variety and choice of housing types to provide for existing and future housing needs, to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environmental and resource lands.</p> <p>Applies when a planning proposal affects land within an existing or proposed residential zone, and any other zone in which significant residential development is permitted or proposed to be permitted.</p>	<p>Applicable.</p> <p>The proposal seeks to rezone the site to enable subdivision to create an additional 15 allotments, suitable for dwelling purposes.</p> <p>The proposal is located adjacent to and opposite an existing residential area, therefore is able to access and augment existing services and infrastructure for any new dwellings constructed.</p> <p>It is therefore considered that the proposal is consistent with this Direction.</p>
3.2 Caravan Parks and Manufactured Home Estates	
<p>Aims to provide for a variety of housing types and provide opportunities for caravan parks and manufactured home estates.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p>	<p>Applicable.</p> <p>The planning proposal does not seek to rezone land to provide for caravan parks or manufactured home estates or remove provisions relating to this issue.</p> <p>It is therefore considered that the proposal is</p>

Direction	Comment
	consistent with this Direction.
3.3 Home Occupations	
<p>Aims to encourage the carrying out of low impact small business in dwelling houses.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p>	<p>Applicable.</p> <p>The proposal does not seek to prohibit home occupations. It is therefore considered that the proposal is consistent with this Direction.</p>
3.4 Integrating Land Use & Transport	
<p>Aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts to achieve: improving access to housing, jobs and services by walking, cycling and public transport; increasing choice of available transport and reducing transport on cars; reducing travel demand; supporting efficient and viable public transport services; and provide for efficient movement of freight.</p> <p>Applies when a planning proposal creates alters or moves a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p>	<p>Applicable.</p> <p>It is considered that the proposal is consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for Transport and Development.</p> <p>The proposal is directly adjacent to a well serviced bus stop. Further assessment to ensure availability of alternative transport choices will be undertaken during the Development Application process.</p> <p>It is therefore considered that the proposal is consistent with this Direction.</p>
3.5 Development Near Licensed Aerodromes	
<p>Aims to ensure the effective and safe operation of aerodromes, their operation is not compromised by development which constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, development for residential purposes or human occupation (within the ANEF contours between 20 &amp; 25) incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</p> <p>Applies when a planning proposal creates, alters or removes a zone or provision relating to land in the vicinity of a licensed aerodrome.</p>	<p>Not Applicable.</p> <p>The proposal does not seek to create, alter or remove a zone or provision relating to land in the vicinity of a licensed aerodrome.</p>
3.6 Shooting Ranges	
<p>Aims to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, to reduce land use conflict arising between existing shooting ranges</p>	<p>Not Applicable.</p> <p>The proposal is does not propose to affect, create, alter or remove a zone or a provision relating to</p>

Direction	Comment
<p>and rezoning of adjacent land, and to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.</p> <p>Applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.</p>	<p>land adjacent to and/ or adjoining an existing shooting range.</p>
Hazard & Risk	
4.1 Acid Sulfate Soils	
<p>Aims to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>Applies when a planning proposal applies to land having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps.</p>	<p>Applicable.</p> <p>The subject site is located on land classified as Class 5 Acid Sulfate Soil.</p> <p>This issue has not been encountered during the subdivision works undertaken on the site under the consent for DA/1453/2010 (as amended).</p> <p>It is therefore considered that this proposal will be consistent with this Direction.</p>
4.2 Mine Subsidence & Unstable Land	
<p>Aims to prevent damage to life, property and the environmental on land identified as unstable or potentially subject to mine subsidence.</p> <p>Applies when a planning proposal permits development on land which is within a mine subsidence district, or identified as unstable in a study or assessment undertaken by or on behalf of the relevant planning authority or other public authority and provided to the relevant planning authority.</p>	<p>Applicable.</p> <p>The proposal is located within the Swansea/North Entrance Mine Subsidence District.</p> <p>Further consultation will be undertaken with the MSB subject to endorsement by Council and the Gateway during community consultation of the proposal.</p> <p>It is considered that undertaking this consultation will result in the proposal being consistent with this Direction.</p>
4.3 Flood Prone Land	
<p>Aims to ensure: development on flood prone land is consistent with NSW Government's Flood Prone Land Policy and principles of the Floodplain Development Manual 2005; and provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the</p>	<p>Not Applicable.</p> <p>The site of the proposal is not identified as being flood prone land.</p>

<b>Direction</b>	<b>Comment</b>
<p>potential flood impacts both on and off the subject land.</p> <p>Applies when a planning proposal creates, removes or alters a zone or provision that affects flood prone land.</p>	
4.4 Planning for Bushfire Protection	
<p>Aims to protect life, property and the environment from bushfire hazards, and encourage sound management of bushfire prone areas.</p> <p>Applies when a planning proposal affects or is in proximity to land mapped as bushfire prone land.</p>	<p>Applicable.</p> <p>The site of the proposal contains Category 2 bushfire prone vegetation and bushfire buffer zones.</p> <p>It is expected the APZ requirements will be similar for those lots fronting Summerland Road. This issue can be further assessed during any subsequent development application.</p> <p>It is therefore considered that the proposal will be able to be consistent with this Direction subject to this being undertaken.</p>
Regional Planning	
5.1 Implementation of Regional Strategies	
<p>Aims to give legal effect to the vision, land use strategy, policies, outcomes and actions contained within regional strategies.</p> <p>Applies when the relevant planning authority prepares a planning proposal that is located on land addressed within the Far North Regional Strategy, Lower Hunter Regional Strategy, Central Coast Regional Strategy, Illawarra Regional Strategy &amp; South Coast Regional Strategy.</p>	<p>Applicable.</p> <p>The proposal is considered to be consistent with the Central Coast Regional Strategy.</p> <p>It is therefore considered that the proposal is consistent with this Direction.</p>
5.2 Sydney Drinking Water Catchments	
<p>Aims to protect water quality in the hydrological catchment.</p> <p>Applies when a relevant planning authority prepares a planning proposal that applies to Sydney's hydrological catchment.</p>	<p>Not Applicable.</p> <p>The proposal is not located within Sydney's hydrological catchment.</p>
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	
<p>Aims to: ensure that the best agricultural land will be available for current and future generations to</p>	<p>Not Applicable.</p> <p>The proposal is not located within the Far North</p>

<b>Direction</b>	<b>Comment</b>
<p>grow food and fibre; provide more certainty on the status of the best agricultural land, assisting councils with strategic settlement planning; and reduce land use conflict arising between agricultural use and non-agricultural use of farmland caused by urban encroachment into farming areas.</p> <p>Applies to Ballina, Byron, Kyogle, and Tweed Shire Councils, Lismore City Council and Richmond Valley Council.</p>	Coast Region.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	
<p>Aims to manage commercial and retail development along the Pacific Highway, North Coast.</p> <p>Applies to all councils between and inclusive of Port Stephens and Tweed Shire Councils.</p>	<p>Not Applicable.</p> <p>The proposal is not located between Port Stephens and Tweed Shire Councils.</p>
5.8 Sydney's Second Airport: Badgery's Creek	
<p>Aims to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.</p> <p>Applies to land located within the Fairfield, Liverpool and Penrith City Council and Wollondilly Shire Council Local Government Areas.</p>	<p>Not Applicable.</p> <p>The proposal is not located within the Fairfield, Liverpool and Penrith City Council or Wollondilly Shire LGA.</p>
Local Plan Making	
6.1 Approval and Referral Requirements	
<p>Aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p>	<p>Applicable.</p> <p>The planning proposal does not seek to include provisions which require concurrence from other agencies.</p> <p>It is therefore considered the proposal is consistent with this Direction.</p>
6.2 Reserving Land for Public Purposes	
<p>Aims to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where land is no longer required for acquisition.</p>	<p>Applicable.</p> <p>In the event that the proposal is supported, the land currently proposed for conservation purposes and ownership by Council will remain in private ownership. The land however is not</p>

<b>Direction</b>	<b>Comment</b>
Applies when the relevant planning authority prepares a planning proposal.	formally identified for acquisition under Council's planning instruments.  The approval of the Director-General may be required in this regard for the proposal to be consistent with this Direction.
6.3 Site Specific Provisions	
Aims to discourage unnecessarily restrictive site specific planning controls.  Applies when the relevant planning authority prepares a planning proposal to allow particular development to be carried out.	Applicable.  The proposal does not seek to enable a specific use on the site which is not permissible under the proposed zone (2(a) Residential or R2 Low Density Residential).  It is therefore considered the proposal is consistent with this Direction.
Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	
Aims to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metropolitan Strategy.  Applies when the planning authority within a Metropolitan Local Government Area prepares a planning proposal.	Not Applicable.  This Direction does not apply to Wyong LGA.

SEPP	Comment
SEPP No. 44 – Koala Habitat	
<p>Aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline:</p> <p>(a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and</p> <p>(b) by encouraging the identification of areas of core koala habitat, and</p> <p>(c) by encouraging the inclusion of areas of core koala habitat in environment protection zones</p>	<p>As the area proposing the additional 15 lots is less than 1hectare, the provisions of State Environmental Planning Policy 44 – Koala Habitat have not been triggered.</p>
SEPP No. 55 – Contaminated Land	
<p>Aims:</p> <p>to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment</p> <p>(a) by specifying when consent is required, and when it is not required, for a remediation work, and</p> <p>(b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and</p> <p>(c) by requiring that a remediation work meet certain standards and notification requirements.</p>	<p>The preliminary desktop mapping/ assessment exercise has not identified any contamination of the site. A further review of historical files has identified one incident of illegal dumping on the site currently proposed to be rezoned, which occurred around 2003 (refer to Attachment 2). This fill was sourced from the adjacent residential subdivision.</p> <p>Having regard for the subdivision works already undertaken on the southern portion of Lot 1, it is considered there is a low likelihood of contamination of the site, therefore a contaminated land assessment should not be required.</p> <p>It is considered that the proposal is consistent with the requirements of this SEPP.</p>
SEPP No. 71 Coastal Protection	
<p>Aims:</p> <p>(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and</p> <p>(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural</p>	<p>The proposal is consistent with the aims and objectives of the SEPP 71 Policy.</p> <p>The proposal seeks to enable additional infill residential development adjoining an existing residential area.</p> <p>The proposal does not affect access to and along coastal foreshores, nor is the site affected by</p>

SEPP	Comment
<p>attributes of the coastal foreshore, and</p> <p>(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and</p> <p>(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and</p> <p>(e) to ensure that the visual amenity of the coast is protected, and</p> <p>(f) to protect and preserve beach environments and beach amenity, and</p> <p>(g) to protect and preserve native coastal vegetation, and</p> <p>(h) to protect and preserve the marine environment of New South Wales, and</p> <p>(i) to protect and preserve rock platforms, and</p> <p>(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the <i>Protection of the Environment Administration Act 1991</i>), and</p> <p>(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</p> <p>(l) to encourage a strategic approach to coastal management.</p>	<p>coastal processes such as erosion.</p> <p>It is not considered that an increased density of a minor nature may adversely affect the scenic nature of the environment.</p>