



Work has started on a major road upgrade in Hamlyn Terrace to reduce flooding. Temporary detours are in place as Minnesota Road will be closed until the end of July while Council carries out these works. Works include completely removing the existing road, installing large drains and raising the road level

Wyong Shire Council

Business Paper

ORDINARY COUNCIL MEETING

27 February 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 27 FEBRUARY 2013 at **5.00 pm,**
for the transaction of the business listed below:

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

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8 QUESTIONS ON NOTICE ASKED

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

Michael Whittaker
GENERAL MANAGER

1.1 Disclosure of Interest

TRIM REFERENCE: F2013/00023 - D03259688

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Barbara Gardiner; Councillor Service Officer

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

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

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

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

RECOMMENDATION

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

ATTACHMENTS

Nil

1.2 Proposed Inspections and Briefings

TRIM REFERENCE: F2013/00023 - D03259693

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Barbara Gardiner; Councillor Service Officer

SUMMARY

There were no inspections scheduled for February 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.

Time	Topic	Summary	Presented by
11.00pm - 11.30pm		<i>Community Celebration for half full water supply at The Entrance</i>	
11.30pm - 12.00pm		<i>Travel back to Wyong Shire Council Chambers</i>	
12.00pm - 12.30pm		<i>Lunch</i>	
12.30pm - 1.00pm	Norah Head Boat Ramp - Part 3	To provide Councillors with an update on the final designs for Norah Head Boat Ramp.	Community and Recreation Services – Principal Transport Engineer
1.00pm - 1.30pm	Aboriginal Land Claims	To provide Councillors with information on current Aboriginal Land Claims and to seek Council's endorsement on recommended actions	Land Management Martin Johnson
1.30pm - 2.00pm	DLEP	Status update and program form this date forward	Land Management - Acting Manager Sustainability and Senior Strategic Planner
2.00pm - 2.30pm	Access to the extranet from Councillors digital devices	To give Councillors a session on the access to the extranet from their digital devices	GM's Unit – Chief Information Officer and Manger Corporate Governance
2.30pm - 3.00pm	Q2 2012/13	Second Quarter Budget and Strategic Plan Review – Presentation of Strategic Plan & Budget Update for 2012/13 first quarter.	GM's Unit - Chief Financial Officer
3.00pm - 3.30pm		<i>Business paper discussion</i>	
3.30pm - 4.00pm	<i>Councillor Discussion</i>	<i>At the conclusion of the scheduled briefings issues raised by Councillors will be discussed on an informal basis at the discretion of the Mayor</i>	<i>Mayor</i>

1.2 Proposed Inspections and Briefings (contd)

Briefings proposed for future meetings of Council are outlined in the below table.

RECOMMENDATION

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

1.2 Proposed Inspections and Briefings (contd)

Proposed Briefings List to date

Briefing Title:	Directorate:	Proposed Month:	Proposed Date:
IPaRT Determination	Infrastructure Management	March	06/03/2013
Precinct 7A Masterplan - Feedback following exhibition	Land Management	March	13/03/2013
RZ/7/2009 Chittaway road Rezoning	Land Management	March	13/03/2013
Draft Strategic Plan #2 Briefing	GM Unit		13/03/2013
Community Precinct Committees	Community and Recreation Services		27/03/2013
Q3 2012/13	GM Unit		22/05/2013
Q4 2012/13	GM Unit		28/08/2013
Q1 2013/14	GM Unit		27/11/2013
Comprehensive LEP, DCP & Settlement Strategy post exhibition	Land Management	April	
Urban Design Principles & Concepts	Land Management	April	
Bushfire works plan	Land Management	March	
Iconic Site No 16 - 216-222 Main Road & Rowland Terrace Toukley	Land Management	May	
Rezoning - 223 Scenic Drive Colongra	Land Management	March	
Retail Strategy Review	Land Management	March	
Natural Resources Management Strategy	Land Management	August	
Biodiversity Management Plan	Land Management	January	
Central Coast Taxis	Land Management	March	
Customer Service Review	Community and Recreation Services	July	
Branding Strategy	Community and Recreation Services	June	

1.3 Address by Invited Speakers

TRIM REFERENCE: F2013/00023 - D03259739

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Barbara Gardiner; Councillor Service Officer

SUMMARY

The following person has been invited to address the meeting of Council:

SPEAKERS	REPORT	PAGE NO	DURATION
Mr John Read <i>Providing presentation of the 2012/13 2nd Quarter report for the Central Coast Water Corporation</i>	6.6 – Central Coast Water Corporation Quarterly Review to Wyong Shire Council	288	5 mins

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.***

Nil

1.4 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2013/00023 - D03259747

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Barbara Gardiner; Councillor Service Officer

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on Wednesday 13 February 2013.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 13 February 2013.

ATTACHMENTS

1 MINUTES - Ordinary Council Meeting - 13 February 2013 D03264910

WYONG SHIRE COUNCIL

**MINUTES OF THE
ORDINARY COUNCIL MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 13 FEBRUARY 2013
COMMENCING AT 5:00 PM**

PRESENT

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

IN ATTENDANCE

General Manager, Acting Director Development and Building, Acting Director Land Management, Director Infrastructure and Operations, Director Community and Recreation Services, General Counsel, Executive Manager to the General Manager, Manager Open Space, Communications and Marketing Coordinator and two administration staff.

Prior to the commencement of the meeting the following presentations were made:

Mr Tony Booth, Chairman of The Wyong District Cricket Centenary Committee, and Mr Doug Trigg, President of the Wyong District Cricket Club, presented Council with a copy of their 100th Anniversary Celebration Book, which is to be included in Council's Library catalogue.

On behalf of Council Mr Brett Sherar, Manager of Open Space, congratulated Henny Wagener of Ourimbah for being included in the 2012 Hidden Treasures Honour Roll for her continuous outstanding contribution to the community.

Mayor Eaton, personally and on behalf of Council, thanked both Mr David Jack, former Director of Corporate Services, and Ms Gina Vereker, former Director of Environment and Planning Services, for the tireless and extremely hard work they have undertaken for the community during their time at Council. The Mayor also presented both Gina and David with a gift as a token of Council's appreciation, and wished them both success in their future endeavors.

The Mayor, Councillor Eaton, declared the meeting open at 5.22 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

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

APOLOGIES

Apologies for the inability to attend the meeting were received on behalf of Councillors Troy and Matthews.

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

78/13 That Council accept the apology and grant Councillor Matthews leave of absence from the meeting for the reason that she attending the Life Guard Challenge Finals being held in Bondi.

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

79/13 That Council accept the apology and grant Councillor Troy leave of absence from the meeting for the reason that he is absent due to work duties.

At the commencement of the ordinary meeting report numbers 1.1, 2.1, 2.2, 2.3, 2.4, 2.5, 3.1, 5.5, 6.2, 6.3, 8.1 and 4.1 were dealt with first then the remaining reports in order. However for the sake of clarity the reports are recorded in their correct agenda sequence.

1.1 Disclosure of Interest

3.1 Rebuild of Alison Homestead at 1 Cape Road Wyong for Wyong District Museum and Historical Society

Councillor Nayna declared a non-pecuniary insignificant conflict of interest in the matter for the reason that he is employed by the State Member for Wyong, Mr Darren Webber.

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."

8.1 Notice of Motion - Reducing Serious and Fatal Accidents Ruttleys Road Mannering Park

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that his business premises are located on Ruttley's Road, left the chamber at 6.39 pm, took no part in voting and returned to the chamber at 7.00 pm.

8.1 Notice of Motion - Reducing Serious and Fatal Accidents Ruttleys Road Mannering Park

Councillor Greenwald declared a non-pecuniary insignificant conflict of interest in the matter for the reason that the motion refers to the NSW Police Force and he is an employee of the NSW Police.

Councillor Greenwald 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 the NSW Police is not the focus of the motion so it will not affect my decision making or voting on the motion."

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

80/13 That Council receive the report on Disclosure of Interests and note the advice of the disclosures.

PROCEDURAL MOTION

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

81/13 That Council allow meeting practice to be varied.

82/13 That Council use the exception method to deal with the balance of the Agenda.

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

83/13 That with the exception of report numbers 2.1, 2.2, 2.3, 2.4, 2.5, 3.1, 4.1, 5.5, 6.2, 6.3 and 8.1, Council adopt the recommendations contained in the remaining reports.

1.2 Proposed Inspections and Briefings

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

84/13 That Council receive the report on Proposed Inspections and Briefings.

1.3 Address by Invited Speakers

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

85/13 That Council receive the report on Invited Speakers.

86/13 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 GREENWALD and seconded by Councillor TAYLOR:

87/13 That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 23 January 2013.

BUSINESS ARISING

There was no business arising.

1.5 Mayoral Minute - Proposed Special Rate Variation

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

88/13 That Council direct the General Manager to prepare a further option for the proposed Special Rate Variation of 6.9% (including the rate cap) each year for seven years for Council's consideration.

89/13 That this be reported to Council on 27 February 2013 along with the results of the community consultation on the existing options of 3.4% (rate peg only) and 9.5% (including the rate peg).

PROCEDURAL MOTION

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

90/13 That Council allow meeting practice to be varied.

91/13 That Council consider items 2.1, 2.2, 2.3 and 2.4 simultaneously.

92/13 That Council adopt the staff recommendations for items 2.1, 2.2, 2.3 and 2.4, with the following addition:

"That Council vary the section 94 contributions to 35% of a DU in accordance with Council's current interim policy."

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

AGAINST: NIL

2.1 DA/726/2012 - Proposed Secondary Dwelling to be Incorporated into an Existing Two Storey Dwelling at Norah Head

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

93/13 That Council grant consent subject to the conditions detailed in the schedule attached to the report, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.

94/13 That Council vary DCP 2005 Chapter 99 Building line to permit the development.

95/13 That Council vary the section 94 contributions to 35% of a DU in accordance with Council's current interim policy.

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

AGAINST: NIL

2.2 DA/1052/2012 - Detached Secondary Dwelling at Bateau Bay

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

96/13 That Council grant consent subject to the conditions detailed in the schedule attached to the report, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.

97/13 That Council vary the section 94 contributions to 35% of a DU in accordance with Council's current interim policy.

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

AGAINST: NIL

2.3 DA/1018/2012 Single Dwelling and Detached Secondary Dwelling at Blue Haven

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

98/13 That Council grant consent subject to the conditions detailed in the schedule attached to the report, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.

99/13 That Council vary the section 94 contributions to 35% of a DU in accordance with Council's current interim policy.

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

AGAINST: NIL

2.4 DA/1066/2012 Detached Secondary Dwelling at Gorokan

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

100/13 That Council grant consent subject to the conditions detailed in the schedule attached to the report, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.

101/13 That Council vary the section 94 contributions to 35% of a DU in accordance with Council's current interim policy.

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

AGAINST: NIL

2.5 Delegations for Plumbing and Sewer Inspectors

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

- 102/13 That Council accept the delegated functions under the Plumbing and Drainage Act 2011 as determined by NSW Fair Trading and pursuant to the attached Instrument of Delegation.**
- 103/13 That Council sub-delegate the functions in point 1 above to the General Manager for further consideration.**
- 104/13 That Council authorise the affixing of the Common Seal of Wyong Shire Council to the Instrument of Delegation under Section 21 of the Plumbing and Draining Act 2011.**
- 105/13 That Council authorise the Mayor and the General Manager to execute all documents relating to the Delegation of Authority.**

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

AGAINST: NIL

3.1 Rebuild of Alison Homestead at 1 Cape Road Wyong for Wyong District Museum and Historical Society

Councillor Nayna declared a non-pecuniary insignificant conflict of interest in the matter for the reason that he is employed by the State Member for Wyong, Mr Darren Webber.

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."

Councillor Vincent left the meeting at 5.54 pm and returned to the meeting at 5.55 pm during consideration of this item.

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

- 106/13 That Council defer this matter pending further discussions with staff, The Wyong District Historical Society, interested Councillors and key stakeholders, with a view to considering alternate options.**
- 107/13 That Council extend an invitation to Darren Webber, Member for Wyong, to attend the discussions with key stakeholders and Council, with regards to Alison Road Homestead.**

4.1 CPA/218854 - Design of Upgrades to Five Sewer Pump Stations - Tender Evaluation

Councillor Graham left the meeting at 6.02 pm returned to the meeting at 6.03 pm during consideration of this item.

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

108/13 That Council consider item 4.1 in Confidential session, pursuant to Section 10A 2(d) (ii) of the Local Government Act 1993.

109/13 That Council note its reasons for considering item 4.1, CPA/218854 - Design of Upgrades to Five Sewer Pump Stations - Tender Evaluation, as it contains commercial information of a confidential nature that would, if disclosed would confer a commercial advantage on a competitor of the Council.

110/13 That Council request the General Manager to report on this matter in open session of Council.

4.1.1 MATTER ARISING from Item 4.1 - CPA/218854 - Design of Upgrades to Five Sewer Pump Stations - Tender Evaluation

Councillor Vincent left the meeting at 7.35 pm, returned to the meeting at 7.38 pm and as a result took no part in voting on this item.

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

111/13 That Council request the General Manager to organise a briefing of the Tender Assessment Panel for CPA/218854, to explain their tender assessment process, the criteria established and the weightings allocated in accordance with Council's policy, in particular the Local Preference Policy.

112/13 That Council request the General Manager to review and report on the procurement processes, including the detailed assessment reports that come to Council, so that information around how criteria is established, how weightings are allocated and how the Local Preference Policy is captured

113/13 That Council direct the General Manager to review the Local Preference Policy and to undertake a briefing with Council to capture a higher recognition of engagement of local companies in future procurement processes.

114/13 That Council refer this matter to the Employment and Economic Development Committee prior to the Council briefing.

4.2 CPA/199535 - Supply and Application of Pavement Markings and Associated Works

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

- 115/13 That Council accept the tender from Tenderer No3 for a period of Three (3) years with a Two (2) year option as the first ranked supplier for Contract CPA/199535 – Supply and Application of Pavement Markings and Associated Works.
- 116/13 That Council accepts the tender from Tenderer No 5 for a period of Three (3) years with a Two (2) year option as the second ranked supplier for Contract CPA/199535 – Supply and Application of Pavement Markings and Associated Works.
- 117/13 That Council accepts the tender from Tenderer No 4 for a period of Three (3) years with a Two (2) year option as the third ranked supplier for Contract CPA/199535 – Supply and Application of Pavement Markings and Associated Works.
- 118/13 The estimated annual expenditure against this contract is \$230,244.00 (excl GST), however actual expenditure may vary significantly with fluctuations in demand
- 119/13 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.
- 120/13 That Council determines the Tender Evaluation Report Attachment A remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.

4.3 CPA/221963 - SCADA Systems Integration - Tender Evaluation Report

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

- 121/13 That Council accepts the tender from the company nominated as ‘Tenderer 7’ in the attached confidential Tender Evaluation Report for Contract CPA/221963 -SCADA Systems Integration, Control Systems and Related Services.
- 122/13 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.

5.1 Conference Attendance - 2013 LGSA Tourism Conference

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

- 123/13 That Council receive the report on Conference Attendance - 2013 LGSA Tourism Conference .
- 124/13 That Council meet reasonable expenses incurred in Councillors attending the above conference in accordance with Council's Facilities and Expenses Policy for Councillors.

5.2 Conference Attendance - 2013 ALGWA NSW Conference

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

- 125/13 That Council authorise interested councillors to attend the 2013 ALGWA NSW National Conference being held in Ettalong, NSW from Thursday 14 to Saturday 16 March 2013.
- 126/13 That Council meet reasonable expenses incurred in councillors attending the above conference in accordance with Council's Facilities and Expenses Policy for Councillors.

5.3 Constitutional Recognition of Local Government - First Installment Payment

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

- 127/13 That Council confirm its support of the ALGA and LGSA proposals for the financial recognition of Local Government in the Australian Constitution.
- 128/13 That Council allocate \$34,468.55 (inc GST) over three years, to support the national advertising campaign to raise awareness of local government with the objective of gaining Constitutional Recognition for Local Government.
- 129/13 That Council allocate the first instalment of \$11,489.52 in the 2012-13 Q3 budget review.

5.4 Disclosure of Interest Returns - 1 October to 31 December 2012

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

- 130/13 That Council receive the report on Disclosure of Interest Returns – 1 October to 31 December 2012.

5.5 Minutes of the Employment and Economic Development Committee held on 30 January 2013

Councillor Vincent left the meeting at 6.16 pm, returned to the meeting at 6.17 pm and as a result took no part in voting on this item.

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

- 131/13 That Council receive the minutes of the Employment and Economic Development Committee meeting held on 30 January 2013.
- 132/13 That Council initiate the development of a modification to the section 94 contributions plans, as to allow the transfer of the unused development contributions within the plan area.
- 133/13 That Council refer the amended Section 94 Contributions Refund Policy to the Employment and Economic Development Committee meeting prior to consideration by Council.
- 134/13 That Council defer the review of standard development conditions of consent pending the appointment of the Director Development and Building.
- 135/13 That Council adopt the recommendations contained in the Minutes of the Confidential Session of the Employment and Economic Development Committee.

5.6 Facilities and Expenses Policy for Councillors

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

- 136/13 That Council note that no submissions were received during the exhibition period.
- 137/13 That Council adopt the Facilities and Expenses Policy for Councillors as exhibited.
- 138/13 That Council provide the Department of Local Government with a copy of the adopted policy.
- 139/13 That Council propose further amendments to the policy as follows:
- a Reimbursement of costs of up to \$500 per annum for communications and media information accessed for Council business and/or Councillor professional development (for example: professional journals, news and current affairs publications).
 - b Reimbursement of costs up to \$600 per annum for electricity charges associated with use of private facilities to conduct Council business.
- 140/13 That Council advertise the proposed amendment in accordance with the provisions of the Local Government Act.

5.7 Adoption of Code of Meeting Practice

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

141/13 That Council note that no submissions were received during the exhibition period.

142/13 That Council adopt the Code of Meeting Practice as exhibited.

6.1 One Association Ballot Results

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

143/13 That Council receive the report on One Association Ballot Results.

6.2 Road Capital Works Program

Councillor Vincent left the meeting at 6.16 pm and returned to the meeting at 6.17 pm during consideration of this item.

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

144/13 That Council receive the report on the status of the Council's Road Capital Rolling Works Program.

6.3 Meeting Procedure

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

145/13 That Council receive the report on Meeting Procedure.

PROCEDURAL MOTION

It was moved by Councillor VINCENT and seconded by Councillor GREENWALD:

1 That Council allow meeting practice be varied.

2 That Council recommit item 1.5, Mayoral Minute – Proposed Special Rate Variation.

The MOTION was put to the vote and declared LOST.

6.4 Outstanding Questions on Notice and Notices of Motion

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

146/13 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.

8.1 Notice of Motion - Reducing Serious and Fatal Accidents Rutleys Road Mannering Park

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that his business premises are located on Rutley's Road, left the chamber at 6.39 pm, took no part in voting and returned to the chamber at 7.00 pm.

Councillor Greenwald declared a non-pecuniary insignificant conflict of interest in the matter for the reason that the motion refers to the NSW Police Force and he is an employee of the NSW Police.

Councillor Greenwald 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 the NSW Police is not the focus of the motion so it will not effect my decision making or voting on the motion."

Mayor Eaton vacated the chair at 6.39 pm and Councillor Webster assumed the chair for the reporting of this item.

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

147/13 That Council note with great concern the recent spate of serious and fatal accidents on Rutleys Road, where excessive speed appears to have been a significant contributor in some accidents.

148/13 That Council request the traffic committee to trial a speed limit reduction on Rutley's Road to improve road safety.

149/13 That Council request the local area command of the police service to increase patrolling and enforcement of current and future speed limits in this area.

150/13 That Council recognise the excellent preliminary works done on this issue by staff, the Roads and Maritime Services, Local Area Command and the Traffic Committee in partnership with our Local State Member for Swansea, Mr Garry Edwards.

151/13 That Council seek to have Rutley's Road identified as a regional road to assist in accessing further funding options.

152/13 That Council direct the General Manager to seek the actual recorded reasons for the major traffic accidents on Rutley's Road and report them to Council.

Mayor Eaton resumed the chair at 7.00 pm.

CONFIDENTIAL SESSION

Councillor Taylor left the meeting at 7.01 pm, returned to the meeting at 7.03 pm and as a result took no part in voting on this item.

Councillor Best left the meeting at 7.02 pm, returned to the meeting at 7.03 pm and as a result took no part in voting on this item.

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

153/13 That Council move into Confidential Session.

At this stage of the meeting being 7.02 pm council moved into Confidential Session with the members of the press and public excluded from the meeting of the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action is taken in accordance with Section 10a of The Local Government Act, 1993.

OPEN SESSION

Council resumed in open session at 7.32 pm and the General Manager reported on proceedings of the confidential session of the ordinary meeting of council as follows:

4.1 CPA/218854 - Design of Upgrades to Five Sewer Pump Stations - Tender Evaluation

154/13 That Council accept the tender from the company nominated as Tenderer 3 in the attached Tender Evaluation Report, for the lump sum amount of \$505,000 (excl GST) for Contract CPA/218854 – Central Coast Pumps and Pipes Panel Work Package W01 (Design of upgrades to SPS WS11, B5, B6, WS29 and WS30).

155/13 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.

156/13 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.

QUESTIONS ON NOTICE

**Q5/13 Land Slips and Erosion at Norah Head Marine Rescue Head Office
Councillor Luke Nayna
F2010/00500**

“Can the General Manager please provide an update on issues around land slips and coastal erosion affecting the Norah Head Marine Rescue Head Office. What steps have WSC taken to assist in addressing these issues and what role can we play in partnership with the NSW State Government.”

Q6/13 First 100 Days
Councillor Greg Best
F2010/00500

"My Mayor,

It has been approx 100 working days since the 8 September 2012 election, clearly community message was a demand for change, efficiencies and a fresh "can do" approach.

Could you outline this Council's key achievements and fresh strategic direction to date over the past 100 days?"

Q7/13 Cost Shifting Theft
Councillor Greg Best
F2010/00500

"Mr Mayor,

At Council's recent service delivery review workshop, the community clearly articulated the need for council to get back to basics and focus on core Council business. Also the insidious issue of cost shifting by both past and present state and federal government's, was repeatedly raised identifying that some \$23million has been taken from our rate payers via various state and federal government taxes and levies. Could you urgently list the areas that make up the \$23million rate payer rip off!"

Q8/13 Follow up on Notice of Motion - Wyong Skills Centre
Councillor Lloyd Taylor
F2010/00500

"Mr General Manager,

I refer to Notice of Motion 7.4 of 10 October 2012 moved by Councillor Nayna, wherein Council resolved to proceed with the Wyong Skills Centre in partnership with CCGT.

Mr General Manager, can you please advise on the progress of this vital youth employment initiative?"

THE MEETING closed at 7.43 pm.

2.1 DA 1086/2012 - Proposed Dwelling and Secondary Dwelling at Charmhaven

TRIM REFERENCE: DA/1086/2012 - D03252496

MANAGER: Jamie Loader, Acting Director Development and Building

AUTHOR: Scott Rathgen; Team Coordinator

SUMMARY

An application has been received for a dwelling and a detached secondary dwelling at 49 Tingira Street, Charmhaven. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979, the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Jody Marshall Constructions
Owner	Jody Marshall
Application No	DA/1086/2012
Description of Land	Lot 226 DP 28076, No 49 Tingira Street, Charmhaven
Proposed Development	Dwelling and a Detached Secondary Dwelling
Site Area	575.40m ²
Zoning	2(a) Residential
Existing Use	Vacant Land
Estimated Value	\$275,000

RECOMMENDATION

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

PRECIS

- An application has been received for a principal dwelling and a detached secondary dwelling. The detached secondary dwelling is proposed to front the second street frontage.
- The site is zoned 2(a) Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP 1991).
- The secondary dwelling complies with the relevant clauses for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009.

2.1 DA 1086/2012 - Proposed Dwelling and Secondary Dwelling at Charmhaven (contd)

- The proposed principal dwelling complies with Development Control Plan (DCP) 2005, Chapter 99 Building Lines and Chapter 100 Quality Housing.

INTRODUCTION

The Site

The corner street property currently is a vacant allotment with a few existing scattered trees across the site and a couple within the road reserve adjacent. The adjoining properties consist of residential dwellings and ancillary structures which is the predominant development type in this area.



2.1 DA 1086/2012 - Proposed Dwelling and Secondary Dwelling at Charmhaven (contd)

The application has been referred to Council for determination solely based upon the Council resolutions of 14th of November 2012 which states:

- “1 That Council extend the trial for a period of 6 months.
- 2 That Council levy secondary dwellings (Granny Flats) during the trial period on the basis that they are equivalent to 35% of a Development Unit for the purpose of Section 94 contributions in accordance with the applicable contributions plans.
- 3 That Council implement the trial by way of those affected development applications being reported to Council for determination.

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

AGAINST: NIL”

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

VARIATIONS TO POLICIES

Nil

HISTORY

This is the first application for development that has been made on this allotment.

PERMISSIBILITY

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

- “(a) to provide land primarily for detached housing generally not exceeding a height of 2 storeys and with private gardens in an environment free from commercial and other incompatible activities and buildings, and
- (b) to provide for other uses, but only where they:
 - (i) are compatible with the residential environment and afford services to residents at a local level, and
 - (ii) are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing, and
- (c) to provide for home-based employment where such will not:

2.1 DA 1086/2012 - Proposed Dwelling and Secondary Dwelling at Charmhaven (contd)

- (i) *involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or*
- (ii) *have a material adverse impact on residents.”*

The proposal is for a single storey dwelling and secondary dwelling development. The overall scale is consistent with existing development in the area and the development would incorporate appropriate landscaping.

The secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

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

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

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

ASSESSMENT

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

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

State Environmental Planning Policy (Affordable Rental Housing) 2009

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

Division 2, Clause 20 and 22 state:

CI 20 'Land to which Division applies'

"This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but only if development for the purposes of a dwelling house is permissible on the land:

- (a) Zone R1 General Residential,*
- (b) Zone R2 Low Density Residential,*
- (c) Zone R3 Medium Density Residential,*
- (d) Zone R4 High Density Residential,*
- (e) Zone R5 Large Lot Residential."*

Clause 22 "Development may be carried out with consent"

- "(1) Development to which this Division applies may be carried out with consent.*
- (2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.*
- (3) consent authority must not consent to development to which this Division applies unless:*
 - (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and*
 - (b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area."*
- (4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:*
 - (a) site area if:*

2.1 DA 1086/2012 - Proposed Dwelling and Secondary Dwelling at Charmhaven (contd)

(i) the secondary dwelling is located within, or is attached to, the principal dwelling, or

(ii) the site area is at least 450 square metres,

(b) parking

if no additional parking is to be provided on the site.

(5) *A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4)".*

The provisions of Division 2 Clause 20 and 22 of the SEPP as stated above are fully complied with. Whilst compliance with the standards set out in Schedule 1 of the SEPP for Complying Development is not a requirement with this application as it has been made as a development application, it is however fully compliant with these standards.

Under these circumstances the proposed secondary dwelling is considered justified.

Wyong Local Environmental Plan 1991

The property is zoned 2(a) residential. The dwelling is permissible under the provisions of WLEP and meets the objectives of the zone. The secondary dwelling is proposed under the provisions of SEPP (Affordable Rental Housing) 2009 which overrides any provisions contained with the WLEP.

Development Control Plan 2005 Chapter 99 – Building Lines

Clause 3.1 of Chapter 99 – Building Lines for residential dwellings and ancillary development requires a front setback of 4.5 metres and side setback of 2 metres to a second street boundary. The other side and rear boundary setbacks require 900mm. The proposed dwelling and secondary dwelling are fully compliant with both building lines setbacks.

Development Control Plan 2005 Chapter 100 – Quality Housing

The applicant was requested to make a minor amendment to the proposal to address streetscape and articulation provisions for the second street frontage. Amended plans have been received addressing the area of non compliance. The amended proposal now provides for a quality residence within the locality and complies with all provisions of Development Control Plan 2005 Chapter 100 – Quality Housing.

Development Control Plan 2005 Chapter 14 – Tree Management

The application proposes the removal of 14 trees to accommodate the development and associated hardstand areas. All trees are listed as keystone species in DCP2005 Chapter 14 Tree Management.

The proposal has been reviewed by Council's Arborist and it is considered acceptable to remove 12 of the trees, however, it is possible to retain two of the trees and still undertake the development as proposed. Appropriate conditions would be applied to the consent and under these circumstances this is not a matter to prevent the approval of the development.

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

The relationship to the regional and local context and setting

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

The access, transport and traffic management measures

Access to the site is proposed from Tingira Street, Charmhaven.

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

Any effect on privacy, view loss and overshadowing

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

The impact on utilities supply.

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

Any impact on the conservation of water.

A BASIX certificate has been submitted with the application and the proposal involves the use of water saving fixtures and a water tank of a minimum 5000 litre capacity. Connection of the tank to the toilet, washing machine and external tap will contribute to the conservation of water.

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

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

Any effect on the flora and fauna.

The application proposes the removal of 14 trees to accommodate the development and associated hardstand areas. All trees are listed as keystone species in DCP2005 Chapter 14 Tree Management.

The proposal has been reviewed by Council's Arborist and it is considered acceptable to remove 12 of the trees, however, it is possible to retain two of the trees and still undertake the development as proposed. Appropriate conditions would be applied to the consent and under these circumstances this is not a matter to prevent the approval of the development.

2.1 DA 1086/2012 - Proposed Dwelling and Secondary Dwelling at Charmhaven (contd)

The provision of waste facilities.

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

Whether the development will be energy efficient.

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

Whether the development will cause noise and vibration.

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

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

The Mines Subsidence Board has granted approval, subject to conditions of consent.

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

During the construction of the dwellings tree protection and sediment fencing will be installed and construction noise would be minimised via conditions of consent.

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

Whether the proposal fits in the locality.

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

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

It is considered the impact on the environment would be minimal and the proposed dwellings would complement the existing amenity of the locality.

Whether the site attributes are conducive to development.

The site is considered appropriate for the proposed development.

2.1 DA 1086/2012 - Proposed Dwelling and Secondary Dwelling at Charmhaven (contd)

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

Any submission from the public.

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

Any submission from public authorities.

There are no submissions from public authorities.

OTHER MATTERS FOR CONSIDERATION

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

Section 94 contributions are applicable in the instance of the proposed secondary dwelling, given that they cannot be applied alongside a contribution under Section 94A for the proposed single dwelling. Council's Section 94A Plan states that the Section 94A Levy will not be imposed "*where the Council has previously imposed a condition on the same development requiring the payment of a contribution under a Section 94 plan*".

The application of Section 94 contributions in lieu of applying the Section 94A Levy is supported by the fact that Section 94 contributions are directly levied according to the estimated increase in demand, rather than as a percentage of the estimated cost of the development as required by Section 94A.

Therefore, under the contribution plan the secondary dwelling would generate Section 94 contributions for a 2 bedroom dwelling at the rate of 0.70 development unit equating to \$5981.30. In accordance with the Council resolution of 14th of November 2012 contributions of 35% of a development unit would reduce the contributions to \$2,867.75. This equates to a reduction in the contributions of \$3,113.55.

CONCLUSION

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

ATTACHMENTS

- | | | | |
|---|---------------------------|-----------|-----------|
| 1 | Draft Approval Conditions | | D03252244 |
| 2 | Development Plans | Enclosure | D03252585 |

**PROPOSED CONDITIONS – DA 1086/2012
49 TINGIRA STREET, CHARMHAVEN**

- 1 The development taking place in accordance with the approved development plans reference number dwelling and granny flat sheets 1 to 10 prepared by J Marshall Constructions dated 29.1.2013 except as modified by any conditions of this consent, and any amendments in red.

Certificates – Application and Approval

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

Prior to Release of Construction Certificate:

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

Contribution Payment Requirements

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

Structural Design Requirements

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

Water and Sewer Services - Design Requirements

- 5 The developer must submit an application to Council under Section 305 of the Water Management Act 2000 for any requirements for the obtaining of a Section 307 Certificate of Compliance. The application must be made prior to the issue of the Construction Certificate. **Note:** The Section 305 Notice may contain requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

Prior to Commencement of Works:

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

Ecology/Trees Requirements

- 6 Prior to works associated with the development commencing, all trees nominated for retention are to be suitably protected by fencing or other accepted protection method in accordance with AS/NZS 4970-2009 - *Protection of Trees on Development Sites* and Council's Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development*. All required tree protection measures are to be maintained for the duration of construction works.
- 7 Prior to works associated with the development commencing and for the duration of construction works, the following protocols are to be implemented to ensure tree and vegetation protection upon the development site:
 - Trees 1 and 2 are to be protected by the erection of 1.8 metre high chain wire interlocking fencing, AS/NZS 4970-2009 – Protection of Trees on Development Sites and Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development. The tree protection measures are to be put in place a minimum of two metres from the trunks of retained trees.
 - Erection of tree protection measures is to be confirmed to Council's Development Arborist prior to commencement of works, or alternatively Council must be notified to undertake an inspection of the works.
 - All fenced tree protection areas are to be clearly marked as "No Go Area" on the fencing itself.
 - No clearing of vegetation or storage of vehicles or machinery, waste, fill or materials or unauthorised access is to occur within the fenced tree protection areas.
 - Five (5) replacement trees are to be incorporated into the development. Eucalyptus haemastoma (75 litre) replacement trees are to be sourced and planted before the release of the Occupation Certificate. One (1) street tree centred along Tingira Street and four (4) along Alan Avenue. All tree replacement is to comply with NATSPEC regulations. Dead trees are to be replaced and planted by the applicant.

Erosion and Sediment Control Requirements

- 8 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.

- 9 Prior to works associated with the development commencing, a single all-weather hardstand access, extending from the kerb and gutter/edge of bitumen to the building under construction, is to be installed in order to provide appropriate access to the site during periods of inclement weather.
- 10 Prior to works associated with the development commencing, suitable sediment control kerb inlet trap devices are to be provided downstream of the development site adjoining locations such as kerb inlet drainage pits, in order to prevent any silt that may have left the site from entering the drainage system. The build up of silt and debris behind the required kerb inlet trap devices is to be removed from the site on a daily basis.
- 11 Prior to works associated with the development commencing, an appropriate sign to promote the awareness and importance of the maintenance of on-site sediment control techniques is to be provided on the most prominent sediment fence or erosion control device within the development site, for the duration of the project.

Home Building Act Requirements

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

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

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

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

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

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

Roads - Preconstruction Requirements

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

Site Requirements

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

During Construction Works:

The following conditions must be satisfied during construction works.

Approved Plans

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

Earthworks and Haulage - Construction Requirements

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

Erosion and Sediment Control - Construction Requirements

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

Plumbing and Drainage - Construction Requirements

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

Site Requirements

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

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

Prior to Release of Occupation Certificate:

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

BASIX Requirements

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

Building Code of Australia – Compliance Requirements

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

Dilapidation Rectification Requirements

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

Landscaping Requirements

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

Plumbing and Drainage - Compliance Requirements

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

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

Vehicle Access and Parking – Compliance Requirements

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

Water and Sewer Services/Infrastructure – Compliance Requirements

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

Ongoing Operation:

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

No Conditions

SCHEDULE OF CONTRIBUTIONS

Shire Wide Regional Open Space	\$124.45
Shire Wide Cycleway Network	\$255.35
Shire Wide Performing Arts Centre & Public Art	\$288.15
Shire Wide Administration	\$55.25
Gorokan District Administration	\$361.75
Gorokan District Open Space Works	\$2,668.15
Gorokan District Community Facilities Works	\$2,228.20

2.2 DA 32/2013 Detached Secondary Dwelling at Tumbi Umbi

TRIM REFERENCE: DA/32/2013 - D03252634

MANAGER: Jamie Loader, Acting Director Development and Building

AUTHOR: Scott Rathgen; Team Coordinator

SUMMARY

An application has been received for a detached secondary dwelling at 43 Wyong Road, Tumbi Umbi. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979, the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Mark Nomchong
Owner	Mark and Jackie Nomchong
Application No	DA/32/2013
Description of Land	Lot 13, DP 22009, 43 Wyong Road, Tumbi Umbi
Proposed Development	Detached secondary dwelling
Site Area	923.20m ²
Zoning	2a Residential
Existing Use	Residential
Estimated Value	\$60 000

RECOMMENDATION

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

PRECIS

- An application has been received for a proposed detached secondary dwelling.
- The site is zoned 2(a) Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP 1991).
- The secondary dwelling complies with the relevant clauses for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009.

INTRODUCTION

The Site

The property currently contains a single dwelling. The secondary dwelling is proposed to be sited in the vacant area at the rear of the property. The adjoining properties consist of residential dwellings and ancillary structures which is the predominant development type in this area.

The application has been referred to Council for determination solely based upon the Council resolutions of 14th of November 2012 which states:

Council at its meeting of the 14 November 2012, resolved unanimously on the motion of Councillor Graham and seconded by Councillor Vincent:

- 1 That Council extend the trial for a period of 6 months.*
- 2 That Council levy secondary dwellings (Granny Flats) during the trial period on the basis that they are equivalent to 35% of a Development Unit for the purpose of Section 94 contributions in accordance with the applicable contributions plans.*
- 3 That Council implement the trial by way of those affected development applications being reported to Council for determination.*

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

AGAINST: NIL

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

LOCALITY PLAN



VARIATIONS TO POLICIES

Nil

HISTORY

A single storey dwelling was approved and constructed which currently exists on the site.

PERMISSIBILITY

The subject site is zoned 2a Residential Zone under the WLEP 1991. The proposed secondary dwelling is permissible with consent and complies with the objectives of the zone as follows:

- (a) *to provide land primarily for detached housing generally not exceeding a height of 2 storey's and with private gardens in an environment free from commercial and other incompatible activities and buildings, and*
- (b) *to provide for other uses, but only where they:*
 - (i) *are compatible with the residential environment and afford services to residents at a local level, and*
 - (ii) *are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing, and*
- (c) *to provide for home-based employment where such will not:*
 - (i) *involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or*
 - (ii) *Have a material adverse impact on residents.*

The proposal is single storey and would integrate with the existing development. The overall height is consistent with existing development in the area and the development would incorporate appropriate landscaping. The development is to be used for residential purposes only.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

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

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

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

ASSESSMENT

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

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

State Environmental Planning Policy (Affordable Rental Housing) 2009

SEPP (Affordable Rental Housing) 2009 permits secondary dwellings up to a maximum floor area of 60m². The proposed secondary dwelling has a floor area of 57.54m². The subject allotment also exceeds the minimum area of 450m².

Division 2, Clause 20 and 22 state:

CI 20 'Land to which Division applies'

"This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but only if development for the purposes of a dwelling house is permissible on the land:

- (a) Zone R1 General Residential,*
- (b) Zone R2 Low Density Residential,*
- (c) Zone R3 Medium Density Residential,*
- (d) Zone R4 High Density Residential,*
- (e) Zone R5 Large Lot Residential.*

Clause 22 "Development may be carried out with consent"

"(1) Development to which this Division applies may be carried out with consent.

2.2 DA 32/2013 Detached Secondary Dwelling at Tumbi Umbi (contd)

- (2) *A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.*
- (3) *A consent authority must not consent to development to which this Division applies unless:*
- (a) *the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and*
 - (b) *the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.”*
- (4) *A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:*
- (a) **site area** *if:*
 - (i) *the secondary dwelling is located within, or is attached to, the principal dwelling, or*
 - (ii) *the site area is at least 450 square metres,*
 - (b) **parking**
 - if no additional parking is to be provided on the site.*
- (5) *A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4)”.*

The provisions of Division 2 Clause 20 and 22 of the SEPP as stated above are fully complied with. Whilst compliance with the standards set out in Schedule 1 of the SEPP for Complying Development is not a requirement with this application as it has been made as a development application, it is however fully compliant with these standards.

Under these circumstances the proposed secondary dwelling is considered justified.

Wyong Local Environmental Plan 1991

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

Development Control Plan 2005 Chapter 99 – Building Lines

Clause 3.1 of Chapter 99 – Building Lines requires a side and rear setback of 900mm to an adjoining allotment.

The secondary dwelling can also be further justified in terms of:

- (i) being matching and sympathetic to the desirable character and placement of adjoining development;

- (ii) does not impact in any way to the local streetscape;
- (iii) the development retains reasonable privacy for existing and future residents;
- (iv) design features of the proposed development has considered better energy efficiency, enhanced solar access, and retention of significant existing vegetation; and
- (v) has adequate off street and on street parking being available for the dwelling.

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

The relationship to the regional and local context and setting

The proposed secondary dwelling is consistent with the scale and character of the local area of Tumbi Umbi. The scale, bulk, height, massing and choice of materials and finishes for the proposed secondary dwelling are considered appropriate to the local context and would enhance the residential scenic quality.

The access, transport and traffic management measures

Access to the site is provided by an existing driveway from Wyong Road Tumb Umbi.

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

Any effect on privacy, view loss and overshadowing

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

The impact on utilities supply.

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

Any impact on the conservation of water.

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

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

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

Any effect on the flora and fauna.

Two trees are proposed to be removed for the development. These trees are not significant and their removal is unlikely to significantly affect threatened species populations, ecological communities or their habitats. Council's Arborist and Landscape Design Assessment Officer supports their removal and has applied conditions of consent for adjacent trees to be retained.

The provision of waste facilities.

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

Whether the development will be energy efficient.

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

Whether the development will cause noise and vibration.

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

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

The property is bushfire prone land. The proposed development has been assessed against the Planning for Bushfire Protection Guidelines and subject to compliance with the construction standards of these guidelines the bushfire risk is adequately addressed.

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

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

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

Whether the proposal fits in the locality.

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

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

It is considered the effect on the environment would be minimal and the proposed secondary dwelling would complement the residential locality.

Whether the site attributes are conducive to development.

The site is considered appropriate for the proposed development.

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

Any submission from the public.

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

Any submission from public authorities.

There are no submissions from public authorities.

OTHER MATTERS FOR CONSIDERATION

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

Under the contribution plan the secondary dwelling would generate Section 94 contributions for a 2 bedroom dwelling at the rate of 0.70 development unit equating to \$6,455.65. In accordance with the Council resolution of 14th of November 2012 contributions of 35% of a development unit would reduce the contributions to \$3,095.20. This equates to a reduction in the contributions of \$3,360.45.

CONCLUSION

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

ATTACHMENTS

- | | | | |
|---|---------------------------|-----------|-----------|
| 1 | Draft Approval Conditions | | D03252462 |
| 2 | Development Plans | Enclosure | D03252700 |

PROPOSED CONDITIONS - DA 32/2013 43 WYONG ROAD, TUMBI UMBI

- 1 The development taking place in accordance with the approved development plans reference number 1238 Sheets 1 to 4 prepared by G & G Drafting dated Dec 2012 except as modified by any conditions of this consent, and any amendments in red.

Certificates – Application and Approval

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

Prior to Release of Construction Certificate:

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

Contribution Payment Requirements

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

Structural Design Requirements

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

Water and Sewer Services - Design Requirements

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

Prior to Commencement of Works:

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

Erosion and Sediment Control Requirements

- 6 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.
- 7 Prior to works associated with the development commencing, a single all-weather hardstand access, extending from the kerb and gutter/edge of bitumen to the building under construction, is to be installed in order to provide appropriate access to the site during periods of inclement weather.
- 8 Prior to works associated with the development commencing, an appropriate sign to promote the awareness and importance of the maintenance of on-site sediment control techniques is to be provided on the most prominent sediment fence or erosion control device within the development site, for the duration of the project.

Home Building Act Requirements

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

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

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

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

- A copy of the Owner Builder's Permit.

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

Site Requirements

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

During Construction Works:

The following conditions must be satisfied during construction works.

Approved Plans

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

Earthworks and Haulage - Construction Requirements

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

Ecology/Trees - Construction Requirements

- 18 No tree (or other vegetation) other than those specifically notated on the approved plan(s) as "tree to be removed" shall be felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed or removed, without the further written consent of the Consent Authority.

Erosion and Sediment Control - Construction Requirements

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

Plumbing and Drainage - Construction Requirements

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

Site Requirements

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

Prior to Release of Occupation Certificate:

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

BASIX Requirements

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

Building Code of Australia – Compliance Requirements

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

Plumbing and Drainage - Compliance Requirements

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

- 28 Prior to the issue of an Occupation Certificate, the required rainwater tank is to be provided in the location as detailed within the approved development plans with suitable plumbing connections provided to collect rainwater from the roof area as detailed within the BASIX Certificate applicable to the development. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500 and shall be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all fixtures as detailed within the BASIX Certificate applicable to the development. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%.
- 29 Prior to the issue of an Occupation Certificate, the surcharge gully provided with respect to the development, must be located a minimum of 150mm below floor level and 75mm above the surrounding finished ground level.
- 30 Prior to the occupation of the building occurring, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority. Occupation of the development without an Occupation Certificate is an offence under the provisions of the Environmental Planning and Assessment Regulation, 2000.
- 31 Prior to the occupation of the building occurring, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority. Occupation of the development without an Occupation Certificate is an offence under the provisions of the Environmental Planning and Assessment Regulation, 2000.

Stormwater – Compliance Requirements

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

Water and Sewer Services/Infrastructure – Compliance Requirements

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

Ongoing Operation:

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

No Conditions

SCHEDULE OF CONTRIBUTIONS

Shire Wide Regional Open Space	\$124.45
Shire Wide Cycleway Network	\$255.35
Shire Wide Performing Arts Centre & Public Art	\$288.15
Shire Wide Administration	\$55.25
Southern Lakes District Administration	\$361.75
Southern Lakes District Open Space Works	\$2,926.05
Southern Lakes Community Facilities Works	\$2,444.65

2.3 DA/815/2012 - Alterations and Additions at 73 McDonagh Road, Wyong

TRIM REFERENCE: DA/815/2012 - D03254704

MANAGER: Jamie Loader, Acting Director Development and Building

AUTHOR: Scott Rathgen; Team Coordinator

SUMMARY

An application has been received for alterations, additions and the construction of two decks to the existing dwelling at 73 McDonagh Rd Wyong. The property is fully flood affected and the issues associated with this site constraint form the bulk of the discussion in this report. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP& A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Mr John Bowman
Owner	Mr John Bowman
Application No	DA/815/2012
Description of Land	Lot 37 Sec 33 DP 4526 No 73 McDonagh Road, Wyong
Proposed Development	Alterations and additions to the existing dwelling including lowering an existing lounge room, internal alterations and the construction of two timber decks.
Site Area	2996 sqm
Zoning	1 (c) Non Urban Constrained Lands
Existing Use	Residential Dwelling
Estimated Value	\$166,685

RECOMMENDATION

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

PRECIS

- Existing on the site is a single storey dwelling and detached garage.
- The application seeks approval for alterations and additions to the existing dwelling including a small extension to the laundry, the lowering of an existing lounge room to be the same floor level as the remainder of the dwelling, internal alterations and the addition of timber decks.

- The site is zoned 1 (c) Non Urban Constrained Lands under the provisions of Wyong Local Environmental Plan 1991 (WLEP 1991). A single dwelling is permissible with consent.
- The site is wholly flood affected.
- The LWR Floodplain Risk Management Study indicates the 1% AEP flood level in the location of the proposed works as RL 2.71m AHD.
- Council's adopted flood hazard based on the 1% AEP flood of the LWR Floodplain Risk Management plan categorises the site as High Hazard Flood Storage.
- Council's adopted development controls in the LWR Floodplain Risk Management Plan, based on the zoning and hazard category, identify the land as being unsuitable for development.
- The extension to the existing deck extension and the new deck are proposed within the 20 metre foreshore building line. This encroachment requires a merits based assessment under the provisions of Wyong Local Environmental Plan 1991.

INTRODUCTION

The Site

The subject site has an area of 2996 m². Existing on the site is a split levelled single storey dwelling with a detached garage.

The existing dwelling has a setback of 8.05 metres to the Wyong River frontage and is setback over 100 metres to the McDonagh Road frontage.

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

Locality Plan



The Proposed Development

The proposal involves alterations and additions to the existing dwelling including a small extension to the laundry, the lowering of an existing lounge room to be the same floor level as the remainder of the dwelling, internal alterations and the addition of timber decks.

The major issue for consideration relates to flooding and the development controls in Council's LWR Floodplain Risk Management Plan. The Plan currently identifies the land as being unsuitable for development.

VARIATIONS TO POLICIES

Standard	High Hazard Storage & Floodway
Policy	Lower Wyong River Floodplain Risk Management Plan
Departure basis	Due to the property being categorised as High hazard Flood storage it is unsuitable for development.

Clause	Clause 3.1 Chapter 99 Building Lines.
Standard	10.0 metre side boundary setback.
Policy	DCP 2005 Chapter 99 Building Lines
Departure basis	A 5.5 metre setback is proposed to the eastern boundary and a 6.6 metre setback to the western boundary. This represents a 45% and a 34% variation respectively.

HISTORY

Council's records reveal that the existing dwelling, garage, awning and addition were approved in 1969, 1970, 1972 and 1976 respectively. There is no other history relevant to this application.



Picture 2 - front elevation of the existing dwelling.



Picture 3 - rear elevation of the existing dwelling.

PERMISSIBILITY

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

2.3 DA/815/2012 - Alterations and Additions at 73 McDonagh Road, Wyong (contd)

The lot has an area of 2996m² however, was in existence prior to the appointed date. Under these circumstances dwelling alterations and additions are permissible, subject to compliance with any other relevant legislation and or policy.

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

- “(a) to limit the development of land that may be affected by flooding, coastal erosion, slope, and other physical constraints (including lack of adequate water supply and sewerage), and*
- (b) to prohibit development that is likely to prejudice the present and future environmental quality of the land, and*
- (c) to ensure that development is carried out in a manner that minimises risks from natural hazards and does not detract from the scenic quality.”*

In regards to Objective (a), the property is located within the High Hazard Flood Storage area where the 1% Annual Exceedance Probability (AEP) flood level is RL 2.71m AHD.

In regards to Objective (c) the development would not result in any increase in occupancy of the dwelling and it fully complies with Council Flood Prone Land development policy. Under these circumstances it would not create any further risk to the occupants.

Clause 10(3) of the WLEP 1991 states:

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

Accordingly, it is considered that the proposed development satisfies the objectives of the 1(c) Non Urban Constrained Lands Zone.

RELEVANT LEGISLATION STATE/COUNCIL POLICIES AND PLANS

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

- State Environmental Planning Policy 71 – Coastal Protection
- Wyong Local Environmental Plan 1991
- Lower Wyong River Floodplain Risk Management Plan
- Development Control Plan 2005, Chapter 100 (Quality Housing)
- Development Control Plan 2005, Chapter 99 Building Lines
- Council’s Contribution’s Plan S94A Levies

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

2.3 DA/815/2012 - Alterations and Additions at 73 McDonagh Road, Wyong (contd)

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

State Environmental Planning Policy 71 – Coastal Protection

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

The aims of the policy are:

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

The proposed development is consistent with the aims and objectives of this SEPP.

Wyong Local Environmental Plan 1991

Clause 15 Development on land containing acid sulphate soils

Clause 15(2) states:

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

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

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

Clause 23 – Flood Prone Lands

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

Clause 31 - Foreshore building lines

Foreshore building lines

The addition to the dwelling is proposed at a 8.05 metre setback to the rear foreshore boundary instead of the 20 metre foreshore building line required under the WLEP 1991. In this respect Clause 31 of the WLEP 1991 states the following;

- “31 (1) The Council, may, by resolution, fix a line (in this clause called a "foreshore building line") in respect of any land fronting any bay, river, creek, lake, lagoon, harbour or ocean.*
- (2) A foreshore building line shall, when fixed in accordance with subclause (1), be marked upon a plan or clearly described in the resolution and the plan or resolution shall be available for inspection by the public during the office hours of the Council.*
- (3) The Council may alter or abolish any foreshore building line, where the levels, depth or other exceptional features of the site make it necessary or expedient to do so.*
- (4) A building shall not be erected between a foreshore building line and a bay, river, creek, lake, lagoon, harbour or ocean in respect of which the line is fixed.*
- (5) The Council may, after consideration of the appearance of the proposed structure and the effect on the locality in relation to the area between the foreshore building line and the high water mark, consent to the erection of –*
- (a) boat sheds;*
 - (b) wharves;*

- (c) *jetties;*
- (d) *retaining walls;*
- (e) *swimming pools;*
- (f) *structures or works not being habitable buildings below or at the surface of the ground; or*
- (g) *other structures which, in the opinion of the Council, are unobtrusive and acceptable,*

between a foreshore building line and the bay, river, creek, lake, lagoon, harbour or ocean in respect of which the line is fixed.”

The existing dwelling currently extends for a length of 7 metres parallel to the rear boundary at an 8.05 metre setback. The rear deck is proposed in the same alignment as the existing building.

In consideration of the structures proposed within the 20 metre foreshore building line it is necessary for Council to form an opinion on whether the development is unobtrusive or acceptable. In this regard the relevant issues are;

- Is the development an acceptable design and would it unduly impact upon the amenity of adjoining properties; and,
- Are there circumstances that make the development acceptable?

The addition is compliant with the relevant requirements of DCP 2005 Chapter 100 - Quality Housing. The new timber decking at the rear is not excessive in bulk, scale or height and the overall height of the dwelling is in fact proposed to be lowered adjacent to the north eastern boundary. As such the alterations and additions would not impact upon the view corridors from adjoining properties or have any impacts with regard to overshadowing and privacy.

The existing structures on the subject lot are currently sited well within the 20 metre foreshore building line and this is also the case for most of the properties within the locality. The design of the timber deck is the most simple and practical means of providing an outdoor living area at the rear of the dwelling and the fact that it is within the 20m foreshore building line is inconsequential.

Accordingly it is considered that the proposed development is unobtrusive and accordingly meets the requirements of Clause 31(5)(g). Under these circumstances the proposed variation to the foreshore building line could be supported.

Development Control Plan 2005 – Chapter 100 (Quality Housing)

Clause 3.8.3.of Chapter 100 states:

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

The development does not comply with Council’s LWR Floodplain Risk Management Plan (being the most up-to-date flood study). However in accordance with the Council resolution of 14/11/2012 it is proposed to amend this plan to permit development on its merits on 1(c) zoned land. This is discussed in detail later in the report in the section titled Lower Wyong River Floodplain Risk Management Plan.

Development Control Plan 2005, Chapter 99 Building Lines

DCP 2005 Chapter 99 stipulates a 10 metre setback to the side boundary for dwellings on rural zoned properties. The new timber decking is proposed at a 5.5 metre setback to the eastern boundary which represents a 45% variation to this policy. The timber deck extension is proposed at a 5.5 metre setback to the eastern boundary and 6.6 metres to the western boundary which represents a 45% and 34% variation respectively to this policy.

In this locality all of the properties have structures that do not achieve compliance with the side boundary setbacks of the chapter. Although the properties are classified as rural and are larger than a normal residential property, they are also quite narrow at approximately 20 metres in width. As a consequence it is not possible to achieve compliance with a normal sized dwelling.

As has been demonstrated in the discussion on the variation to the foreshore building line, the additions would not result in any significant impact upon the amenity of the adjoining properties and under these circumstances these variations are justified.

ASSESSMENT

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

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

Lower Wyong River Floodplain Risk Management Plan

The flood-related development controls relevant to the site are contained within the *LWR Floodplain Risk Management Plan (the Plan)*, which Council adopted at its Ordinary Meeting on the 27 October 2010. The adoption of the Plan, and thus the flood-related development controls contained within it, supersede the development controls and requirements contained within Council’s Policy F5 - *Flood Prone Land Development* for the LWR catchment.

The LWR Plan was prepared and adopted by Council in accordance with the *NSW Floodplain Development Manual (2005)*.

2.3 DA/815/2012 - Alterations and Additions at 73 McDonagh Road, Wyong (contd)

The *LWR Floodplain Risk Management Study* was prepared in 2009 to assess and map the flood hazards for the Lower Wyong River catchment and examine a range of flood mitigation options to manage or reduce the flood risk. Following consideration of all of the flood mitigation options presented in the Study, the *LWR Floodplain Risk Management Plan* was prepared in 2009. The Plan identifies which mitigation options Council selected and adopted to improve floodplain management of the Lower Wyong River floodplain. Public consultation was completed with both the Risk Management Study and the Plan prior to adoption.

An extract of the development controls applicable to the Lower Wyong River catchment has been reproduced below.

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

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

However, on the 14 November 2012 Council resolved the following;

- "1 That Council prepare an amendment to its adopted Flood Policy to include in the enabling clause, headed "Development in Existing Urban Zones", the following properties zoned 1C Non-Urban Constrained along McDonagh Road such that they are treated as if they are zoned 2(a) Residential for the purposes of assessment within the adopted policy.

Lots 30-39 DP 4526
Lot 1 DP 117876

- 2 That Council place the amendment to its Flood policy on public exhibition for a period of 28 days.
- 3 That Council receive a report outlining the results of the public exhibition process following the expiration of the exhibition period.

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

AGAINST: Nil"

Accordingly upon the amendment of the Lower Wyong River Floodplain Risk Management Plan the site would be considered in the Development Matrix as a residentially zoned parcel. This requires a merits assessment and in this regard the works are relatively minor and would not result in any increase in occupancy of the dwelling.

The area of the dwelling which is proposed to be lowered would be at a level of 2.26m AHD instead of the normal required floor level of 3.2 m AHD. Councils Flood Prone land Development Policy permits additions less than 40 square metres at the same level as the existing structure and also decks below the flood level. Under these circumstances the development would not contravene any development criteria for residential zoned property or result in any further hazards to occupants or cumulative impacts.

It is clearly Council's intention to amend the plan to permit development of this scale within 1(c) non urban constrained land and accordingly varying the Lower Wyong River Floodplain Risk Management Plan in this instance is justified.

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

The relationship to the regional and local context and setting

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

The access, transport and traffic management measures

No issues to report.

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

No issues to report.

The impact on utilities supply.

No issues to report.

The effect on heritage significance.

No issues to report.

Any effect on other land resources.

No issues to report.

Any impact on the conservation of water.

No issues to report.

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

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

Any effect on quality of air and microclimate conditions.

No issues to report.

Any effect on the flora and fauna.

No issues to report.

The provision of waste facilities.

No issues to report.

Whether the development will be energy efficient.

No issues to report.

Whether the development will cause noise and vibration.

No issues to report.

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

Flooding

The property would be subject to considerable inundation in the event of a 1% AEP flood event. However, the development works are relatively minor and would not result in any increase in occupancy of the dwelling.

Councils Flood Prone land Development Policy permits additions less than 40 square metres at the same level as the existing structure and also decks below the flood level. Under these circumstances the development would not contravene any development criteria for residential zoned property or result in any further hazards to occupants or cumulative impacts.

Under these circumstances it is considered that the flood hazard is not a matter that should prevent the approval of the development.

Bushfire

The property is subject to a bushfire threat and a bushfire threat assessment has been submitted which indicates that the development would be able to comply with the Planning for Bushfire protection Guidelines.

Any risks from technological hazards.

No issues to report.

Whether the development provides safety, security and crime prevention.

No issues to report.

Any social impact in the locality.

No issues to report

Any economic impact in the locality.

No issues to report

Any impact of site design and internal design.

No issues to report.

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

No issues to report.

Any cumulative impacts.

No issues to report.

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

Are the site attributes conducive to development?

As outlined earlier in this report, the property would be significantly affected by floodwaters during a flood occurrence. However due to the small scale of the development and that it would not result in any increase in occupancy, it is considered that the site attributes are suitable for this development.

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

Any submission from the public.

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

Any submission from public authorities.

No issues to report.

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

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

No issues to report.

CONCLUSION

The site is zoned 1 (c) Non Urban Constrained Lands and currently under the Lower Wyong River Floodplain Risk Management Plan the site is considered to be unsuitable for development due to it being located within a high hazard flood storage area. However due to Council's resolution to amend this plan it is clear that this scale of development should be able to be assessed on its merits.

The development is relatively minor and would not result in any increase in occupancy of the dwelling, further hazards to occupants or cumulative impacts. The development complies with Council's Flood Prone land Development Policy and under these circumstances is justified.

The approval of the development within the 20 metre foreshore building line is also considered to be acceptable and under these circumstances the development is recommended for approval.

ATTACHMENTS

- | | | | |
|---|---------------------------|-----------|-----------|
| 1 | Draft Approval Conditions | | D03254805 |
| 2 | Development Plans | Enclosure | D03255149 |

**PROPOSED CONDITIONS – DA 815/2012
73 McDONAGH ROAD, WYONG**

- 1 The development taking place in accordance with the approved development plans reference number Design Harmony Sheets 1 to 3 prepared by MM dated 26th September 2012 except as modified by any conditions of this consent, and any amendments in red.

Prior to Release of Construction Certificate:

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

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
- 3 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.
- 4 The proposed development has been assessed against the provisions of *Planning for Bushfire Protection 2006 (NSW)* and has been determined as having a Bushfire Attack Level (BAL) of 12.5. Prior to the issue of a Construction Certificate, construction details demonstrating compliance with *AS3959-2009 – Construction in Bushfire Prone Areas* and additional measures contained in *Appendix 3 of the PBP Guidelines* for the nominated BAL must be provided for the approval of the Accredited Certifier.
- 5 Prior to the issue of a Construction Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.
- 6 Prior to the issue of a Construction Certificate, detailed design drawings must be prepared for the approval of the accredited certifier by a suitably qualified structural engineer in accordance with the requirements of the Hawkesbury-Nepean Floodplain Management Steering Committee publication *Reducing Vulnerability of Buildings to Flood Damage – Guidance on Building in Flood Prone Areas*, for the following flooding characteristics applicable to the development:
 - 1% AEP flood level of RL 2.71 metres AHD.

An appropriate factor of safety must be applied to the forces exerted by the 1% AEP flood before it is used in any structural calculations.

Prior to Commencement of Works:

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

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

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

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

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

- A copy of the Owner Builder's Permit.

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

Site Requirements

- 8 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.

During Construction Works:

The following conditions must be satisfied during construction works.

Approved Plans

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

Site Requirements

- 10 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.

Prior to Release of Occupation Certificate:

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

BASIX Requirements

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

Building Code of Australia – Compliance Requirements

- 12 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.
- 13 Prior to the issue of an Occupation Certificate, the building shall be completed in accordance with the requirements of AS 3959-1999 - *Construction of Buildings in Bushfire Prone Areas*, for a Bushfire Attack Level of 12.5.
- 14 Prior to the issue of an Occupation Certificate, all electrical circuits below the 1% AEP flood level are to be provided with a residual current device.

Ongoing Operation:

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

No Conditions

SCHEDULE OF CONTRIBUTIONS

Section 94A Levy

\$830.00

3.1 Proposed Telstra Telecommunications Facility at Lot 150 DP 263470, Thomas Walker Drive, Chittaway Bay

TRIM REFERENCE: F2012/00403 - D03219046

MANAGER: David Jack, Acting Director Land Management

AUTHOR: Julie Tattersall; Property Administration Officer

SUMMARY

Aurecon, on behalf of Telstra Corporation Ltd, has requested that Council, as the land owner endorse a development application to construct a mobile telecommunications tower and associated equipment shed for part of Lot 150 DP 263470.

RECOMMENDATION

- 1 That Council endorse, as owner of Lot 150 DP 263470 at Thomas Walker Drive, Chittaway Bay, a development application by Aurecon, on behalf of Telstra Corporation Ltd to construct a telecommunication facility on part of the land.**
- 2 That Council emphasises, for the public record, that its endorsement of the Development Application (as the landowner) must not be interpreted in any way whatsoever as support, or otherwise, for the determination of any Development Application by Council.**

BACKGROUND

Aurecon, on behalf of Telstra Corporation Ltd (Telstra), has requested that Council, as the owner of Lot 150 DP 263470 at Thomas Walker Drive, Chittaway Bay (the land), endorse a development application for the construction of a mobile telecommunications base station incorporating a 30 metre high monopole, antennas and an equipment shelter adjacent to the pole to house electronic equipment.

The new facility is required to improve the depth of coverage in the area in response to customer complaints.

CURRENT STATUS

Telstra, as a licensed telecommunications carrier, must operate under the provisions of the Telecommunications Act, 1997 and the Telecommunications Code of Practice, 1997. The 1997 Act requires Telstra to submit a development application in circumstances where the facility is deemed high impact. Telstra may, however, apply for a Facility Installation Permit from the Australian Communications Authority if it is not satisfied with the determination by Council.

3.1 Proposed Telstra Telecommunications Facility at Lot 150 DP 263470, Thomas Walker Drive, Chittaway Bay (contd)

If development consent is granted for the installation of a telecommunications base station on Council's land on Lot 150 DP 263470 at Thomas Walker Drive, Chittaway Bay, to formalise its occupation of the land, it will be necessary for Telstra to enter into a lease of the land from Council. In that regard Telstra has agreed to accept the standard lease terms already agreed between Council and Telstra in respect of other facilities on Council land, for a commencing rental of \$32,000.00 per annum, annual 5% increases and five yearly market reviews for a term up to 20 years comprising four consecutive five year leases subject to development consent.

There are 22 other mobile telecommunication base stations located on Council land and each is managed under consecutive lease arrangements allowing the carriers security of tenure for a maximum of 20 years.

The land is zoned 6 (a) Open Space and Recreation and is known as Bald Hill. The land is classified as Community Land and categorised for Infrastructure under Plan of Management No 5 – Sportsgrounds, Parks, Playgrounds and General Community Use. The Plan of Management authorises leasing.

An application for development may only be made with the consent of the land-owner – which is Council in this case.

THE PROPOSAL

It is proposed that Council endorse of the Development Application as the land owner in a manner that ensures no person may interpret Council's endorsement as having any bearing on the outcome of the application being viewed favourably or unfavourably by Council.

The development application will require a comprehensive assessment under Section 79C of the Environmental Planning & Assessment Act which will also include public notification.

OPTIONS

- 1 Endorse the making of a development application as the owner of the land to enable Aurecon to lodge a development application with Council as the consent authority.

If a Development Application is lodged, Council as the consent authority will undertake a comprehensive assessment in accordance with the Environmental Planning & Assessment Act 1979 including public notification inviting written submissions. All submissions made within the period specified in the notification will be fully considered by Council prior to the determination of the application.

- 2 Refuse to grant owner's consent to the making of a development application.

Telstra has the option to apply for a Facility Installation Permit from the Australian Communications Authority if it is not authorised by the owner to lodge a development application or if it is not satisfied with the determination by Council of the development application. Failure to grant owner's consent to the making of a development application would not prevent the construction of the facility but would prevent Council having an opportunity to include conditions favourable to Council and the community if the proposal is approved.

Budget Impact

The construction of the mobile telecommunications base station will be totally funded by Telstra. All of Council's costs associated with the grant of a lease will be met by Telstra and revenue to Council over the life of the lease will be in excess of \$1.1 million. Telstra will be responsible for maintenance and insurance of the facility.

Principles of Sustainability

The endorsement of owner's consent for a development application will enable the development approval process to proceed ensuring an ecologically sustainable development however Council's endorsement of the Development Application as the landowner is not to be interpreted as support or otherwise for the determination of the application by Council.

CONSULTATION

Telstra has requested a lease of the land if its development application is approved. The development application process will invite public consultation

**CONCLUSION**

Approval is sought for Council, as the owner of the land, to endorse a development application by Telstra to construct a mobile telecommunications tower and associated equipment shed for part of Lot 150 DP 26347.

ATTACHMENTS

Nil.

4.1 CPA/214104 - Air Conditioning Maintenance Services

TRIM REFERENCE: CPA/214104 - D03232953

MANAGER: David Witherdin, Manager Contract and Project Management

AUTHOR: Michael Cantali; Project Director

SUMMARY

Evaluation and selection of tenders for Contract CPA/214104 – Air Conditioning Maintenance Services.

RECOMMENDATION

- 1 That Council accepts the tender from the company nominated as Tenderer No 7 in the attached Tender Evaluation Report, for a period of up to three (3) years (including an option for Council to extend the Contract for a further 2 years) for Contract CPA/214104 – Air Conditioning Maintenance Services. The estimated total expenditure against this contract is \$311,355.00 (excl GST); however actual expenditure may vary significantly with fluctuations in demand.**
- 2 That Council determines the Tender Evaluation Report in Attachment A remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.**
- 3 That Council approve the contract budget sum as detailed in the Recommendation of the Tender Evaluation Report in Attachment A.**
- 4 That Council authorise the General Manager to offer the company nominated as Tenderer No 7 in the attached Tender Evaluation Report an extension to the contract period for an additional two year period subject to satisfactory performance by the Contractor during the initial three year contract period.**

BACKGROUND

The new contract is required for the periodic maintenance of air conditioning plants in approximately 34 Council owned buildings over the next three years and includes an option for Council to extend the contract for a further two years. The plant in the Civic Centre is heavy duty, while numerous lighter duty equipment, ranging from medium sized packaged units to wall mounted room air conditioners, are located throughout the remainder of Council's area of operations such as at Long Jetty and Charmhaven Depots, childcare facilities, libraries and other public buildings.

In order to maintain a high standard of indoor air quality and temperature control, regular maintenance and servicing of the air conditioning plant is required. The existing maintenance contract has exceeded its initial two (2) year term and a new contract has been prepared and tendered. This report details the tendering process and outcome for acceptance.

Scope of Work

Building on the existing contract, the new contract specifies three different types of service for a three year, plus a two year option period as follows:

1 Scheduled Preventive Maintenance

Scheduled Preventative Maintenance component for a standard periodic servicing of plant Air conditioning plant based on an accepted programme and lump sum price.

2 Scheduled Corrective Maintenance

Replacement of worn parts and overhauls as needed, based on the findings of a Condition Assessment Report based on a schedule of rates.

3 Breakdown Corrective Maintenance

Responding to call outs and undertaking unplanned repairs, based on a schedule of rates for call outs and accepted quotations for repairs or replacements.

Materials and spare parts are not included in the contract price. The new contract, which is for labour only allows for an estimated total of 1550 hours for Breakdown Corrective Maintenance call outs and repairs. These hours are based on an assessment of the previous contract, and take into account an expected reduction in call outs due to replacement of the chillers in the main air conditioning plant in the Civic Centre.

To streamline administration the new contract requires the use of a fully computerised records management system to record the condition and servicing of plant, and to submit service reports and a monthly claim for payment.

The new contract will be administered by Building Services including receiving service reports, reporting call outs, and verifying claims for payment.

The cost of servicing and any breakdowns are to be allocated to the cost centres for the various facilities.

INVITATION TO TENDER

The tender was advertised in the Sydney Morning Herald, Advertiser and eTender on 9 October 2012 and closed on 1 November 2012

The Tender invitation documents called for lump sum and a schedule of rates, based on a detailed specification.

A compulsory pre-tender meeting was held at Council Chambers, Hely St Wyong on 17 October 2012 to allow tenderers to become familiar with site and contract conditions.

Tenders closed at Council's Chambers at 2.00pm on 1 November 2012

TENDER SUBMISSIONS

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

- A E Smith Pty Ltd
- Air Conditioning Industries
- Dalkia Technical Services
- Haden Engineering Pty Ltd
- Hannan Technical Services Pty Ltd
- Hirotec Maintenance Pty Ltd
- James & Scott Air Pty Ltd
- J.E.C. Air Conditioning Services Pty Ltd
- Nationwide Air Conditioning Sales And Services Pty Ltd
- Oni Air Group
- Optimum Air Conditioning (NSW) Pty Ltd
- Precise Air Group Pty Ltd
- Trilogy Servicing (formerly Hastie Services Pty Ltd)

No late submissions were received

TENDER EVALUATION

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

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

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

- a) Conformity with contract terms and brief and specifications
- b) Price.
- c) Capacity and experience and resources.
- d) Methodology and Programming

FINANCIAL IMPLICATIONS

There are sufficient funds allocated for this contract within the next year's operating budgets.

RELEVANT LEGISLATION

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

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

4.1 CPA/214104 - Air Conditioning Maintenance Services (contd)

CRITICAL DATES / TIME FRAMES

It is anticipated that on approval the contract will be awarded and put into service as soon as practical.

OPTIONS/ALTERNATIVES

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

PUBLIC CONSULTATION

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

ATTACHMENTS

- | | | |
|---|--|-----------|
| 1 | Confidential Attachment - CPA/214104 - Air Conditioning Maintenance Services - | D03270843 |
|---|--|-----------|

5.1 Adoption of the NSW Model Code of Conduct and Procedures as Wyong Shire Council Code of Conduct and Procedures

TRIM REFERENCE: F2004/06498 - D03230193

MANAGER: Stefano Laface, Executive Manager to the General Manager

AUTHOR: Lesley Crawley; Manager Corporate Governance

SUMMARY

Reporting the release of the NSW Division of Local Government Model Code of Conduct and Procedures.

RECOMMENDATION

- 1 That Council adopt the NSW Division of Local Government Model Code of Conduct 2013 and Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW 2013.**
- 2 That Council note that the General Manager has appointed the positions of Senior Internal Ombudsman and General Counsel as Code of Conduct 'Complaints Coordinator' and 'Alternate Complaints Coordinator', respectively.**
- 3 That Council enter into an arrangement with Gosford Council to share a panel of conduct reviewers under the auspices of Central Coast Regional Organisation of Councils (CCROC)**
- 4 That Council note that Expressions of Interest will be called for the establishment of the panel.**
- 5 That Council report to CCROC its preference to enter into an arrangement for joint use of a panel of Code of Conduct reviewers.**
- 6 That Council establish its own arrangement for a panel of conduct reviewers should the joint option not be approved by CCROC.**
- 7 That Council use the existing Hunter Regional Organisation of Councils Conduct review panel in the interim period.**

BACKGROUND

The Local Government Act (s440) requires all councils to adopt a Code of Conduct that incorporates the provisions of a "model code". The adopted code may include provisions that supplement the model code.

The Local Government Regulations prescribe the Division of Local Government (DLG) Model Code of Conduct for Local Councils in NSW as the "model code" for the purposes of the Act.

5.1 Adoption of the NSW Model Code of Conduct and Procedures as Wyong Shire Council Code of Conduct and Procedures (contd)

Council's current Code of Conduct (adopted in 2008) contains only the provisions of the 2008 DLG Model Code.

The purpose of the Model Code of Conduct is to set the minimum requirements of conduct for council officials (including councillors and staff) in carrying out their functions. The code assists council officials to:

- Understand the standards of conduct that are expected of them.
- Enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439 LG Act).
- Act in a way that enhances public confidence in the integrity of local government.

CURRENT STATUS

The DLG has issued a new Model Code (2013) and Procedures for the Administration of the Model Code (2013). The two documents are collectively described as the Code Framework.

The key features of the Code Framework are:

- Improved complaints management, with complaints about councillors and the general manager managed from start to finish by qualified and independent conduct reviewers.
- Greater fairness and rigour in the investigation process through clearer procedures.
- Stronger penalties for ongoing disruptive behaviour and serious misconduct to more effectively deter and address such behaviour, allowing councils to get on with the business of serving their communities.

The commencement date for the new framework is 1 March 2013.

Key Changes

Key changes to the new Model Code and the Procedures are provided below:

Change	Document/Clause
In the interests of clarity and simplicity, standards of conduct and procedures for dealing with breaches will be separately prescribed.	Standards in Model Code Procedures in Administrative Procedures Document
Minor changes have been made to the standards prescribed under the code in relation to:	
- binding caucus votes	Clause 3.9 - 3.12 Model Code
- the disclosure of political donations	Clause 4.20 – 4.24 Model Code
- loss of quorum	Clause 4.25 – 4.29 Model Code
- significant non-pecuniary conflicts of interests in relation to principal planning instruments	Clause 4.29 Model Code

5.1 Adoption of the NSW Model Code of Conduct and Procedures as Wyong Shire Council Code of Conduct and Procedures (contd)

- gifts	Clause 5.1 – 5.7 Model Code
-relationships between councillors and staff	Clause 6.1 – 6.7 Model Code
- use of council resources for re-election purposes	Clause 7.16 – 7.19 Model Code
- New standards have been included to address misuse of the code and other conduct intended to undermine its implementation.	Clause 8.1 – 8.15 Model Code
- Provisions have been included to improve all councils' access to suitably skilled conduct reviewers.	3.1 -3.11 Administrative Procedures
- Greater flexibility to resolve non-serious complaints, minimising costs to councils.	Part 5 – Administrative Procedures
- Under the new procedures complaints will be managed from start to finish by an independent conduct reviewer at arms length from the council if they are not in formally resolved at the outset.	6.1 – Administrative Procedures
- Increased focus on informal resolution of less serious matters.	Part 5 – Administrative Procedures
- Sanctions resolved by Council for breaches of the Code will be made public via the minutes of the meeting	8.43 – Administrative Procedures
- Rights of review to the Division of Local Government where a person is subject to an adverse outcome.	Part 9 – Administrative Procedures
- The DLG will have more options for dealing with matters directly under the misconduct provisions.	Administrative Procedures
- Expanded penalties for misconduct	8.56 - Administrative Procedures
- DLG and Pecuniary Interest and Disciplinary Tribunal may impose greater penalties for repeated misconduct	Administrative Procedures

The procedures require that:

1. Council, by resolution establish a panel of conduct reviewers following a public expression of interest process.
2. The general manager must appoint a member of staff of the council to act as a complaints coordinator and may appoint an alternate complaints co-ordinator.

THE PROPOSAL

It is proposed to adopt the Model Code of Conduct for Local Councils in NSW and the associated Administrative Procedures (DLG) in its entirety and without addition, as the WSC Code of Conduct and Administrative Procedures.

The Administrative Procedures require that Council, by resolution must appoint a panel of code of conduct reviewers to be used in certain circumstances for review of complaints.

It is proposed that Council join with Gosford and provide a joint panel under the Central Coast Regional Organisation of Councils. An expression of interest process will occur and proposed candidates will be reported to both Councils for adoption.

Should the proposal for a joint panel not proceed, Council will establish its own panel via a public expression of interest process.

The transitional arrangements of the Code require Council to conduct the EOI and have a panel under the new Code by 1 September 2013 or those without a panel by 1 March 2013. It is proposed that Council continue to use the existing panel of reviewers established by the Hunter Regional Organisation of Councils in the interim period.

OPTIONS

Option 1 Council may adopt the Model Code and Procedures as is without amendment.

Option 2 Council may adopt the Model Code and Procedures with additional provisions.

Comment

Adopting the Code and procedures indicates Councils clear support of the governance framework issued by the DLG. Adoption without change also enables council officials to rely on the consistency of the documents and reduce confusion.

STRATEGIC LINKS

Nil

Budget Impact

The revision and adoption of the Code will require training of nominated staff and Councillors. Provision has been made in the appropriate 2012/2013 budgets.

CONSULTATION

The adoption of the documents does not require public exhibition.

GOVERNANCE AND POLICY IMPLICATIONS

Once adopted the Code of Conduct and Procedures will provide a sound platform for Council's suite of organisational policies.

MATERIAL RISKS AND ISSUES

Adoption of the Model Code and Administrative procedures provides a robust governance framework to manage conduct for the organisation.

CONCLUSION

The DLG has issued its revised Model Code of Conduct and Administrative Procedures (2013).

Council must adopt a Code of Conduct that is consistent with the provisions of the Model Code.

It is recommended that Council adopt the Code and Procedures without further amendment.

ATTACHMENTS

- | | | | |
|----------|---|-----------|-----------|
| 1 | Model Code of Conduct for Local Councils in NSW | Enclosure | D03263909 |
| 2 | DLG Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW - March 2013 | Enclosure | D03263910 |

5.2 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2013/01723 - D03257157

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Kay Matthews; Administration Assistant

SUMMARY

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

RECOMMENDATION

- 1 That Council allocate an amount of \$7,389.17 from the 2012-13 Councillors' Community Improvement Grants as follows:

<i>Proposed allocations for 13/02/2013</i>		
<i>Berkeley Vale School Canteen (\$1000)</i>	<i>Morning tea and lunches for disadvantaged children for 2013</i>	<i>\$350.00</i>
<i>Central Coast Ugnay Kabayan (Filipino-Australia People's Link) (\$2000)</i>	<i>To augment organisation's funds to sustain community and welfare projects and services</i>	<i>\$300.00</i>
<i>Central Coast Woodturners Co.op Ltd (\$1154)</i>	<i>Replacement of 48 year old fridge</i>	<i>\$1154.00</i>
<i>Charles Richards for Tayla Richards (\$1200) (\$50 already allocated)</i>	<i>Registration for Central Coast Mariners Academy</i>	<i>\$400.00</i>
<i>Coast Alive Foodcare (\$1800)</i>	<i>Provide meals and activities for foodcare facility for underprivileged families</i>	<i>\$600.00</i>
<i>Firepod (\$685.17)</i>	<i>Assist with payment to WSC for a sprinkler service connection to a group home in Woongarrah that houses elderly disabled residents</i>	<i>\$685.17</i>
<i>Gary Witt for Brodie Witt (\$1200)</i>	<i>Registration for Central Coast Mariners Academy</i>	<i>\$1200.00</i>
<i>National Servicemens Association of Aust Tuggerah Lakes Sub Branch (\$700)</i>	<i>Public Address System for outdoor and indoor events</i>	<i>\$700.00</i>
<i>Toowoona Bay Surf Life Saving Club (\$2000)</i>	<i>Installation of Solar Hot Water System</i>	<i>\$2000.00</i>

- 2 ***That Council approve the amendment of the purpose of the grant previously allocated to the Watanobbi Neighbourhood Watch Group to enable registration with NSW Fair Trading.***

BACKGROUND

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

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

In accordance with Clause 2.3 of the Councillor's Community Improvement Grants Policy available funding for the 2012/2013 financial year is \$75,000. Clause 2.3 states:

"After a Local Government election, the allocation to the individual Councillors will be 50% of the allocation identified in Clause 1.1 and will be available from 1 December of that year to 30 June of the following year".

THE PROPOSAL

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

5.2

Proposed Councillors' Community Improvement Grants (contd)

The proposed allocations are listed below:

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Greenwald	Matthews	Nayna	Taylor	Troy	Vincent	Webster	SUB TOTAL
Allocation 01/01/2012 - 30/06/2013		7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	75,000.00
Expenditure up to and including Ordinary Council Meeting of 23/01/2013		1,300.00	700.00	1,000.00	0.00	630.00	500.00	0.00	0.00	3,550.00	372.02	8,052.02
Available allocation as at 23/01/2013		6,200.00	6,800.00	6,500.00	7,500.00	6,870.00	7,000.00	7,500.00	7,500.00	3,950.00	7,127.98	66,947.98
Proposed allocations for 13/02/2013												
Berkeley Vale School Canteen (\$1000)	Morning tea and lunches for disadvantaged children for 2013	100.00				250.00						350.00
Central Coast Ugnay Kabayan (Filipino-Australia People's Link) (\$2000)	To augment organisation's funds to sustain community and welfare projects and services	100.00	200.00									300.00
Central Coast Woodturners Co.op Ltd (\$1154)	Replacement of 48 year old fridge	100.00	200.00								854.00	1154.00
Charles Richards for Tayla Richards (\$1200) (\$50 already allocated)	Registration for Central Coast Mariners Academy						150.00		250.00			400.00
Coast Alive Foodcare (\$1800)	Provide meals and activities for foodcare facility for underprivileged families	100.00				500.00						600.00
Firepod (\$685.17)	Assist with payment to WSC for a sprinkler service connection to a group home in Woongarah that houses elderly disabled residents	50.00		500.00	135.17							685.17
Gary Witt for Brodie Witt (\$1200)	Registration for Central Coast Mariners Academy			250.00	200.00		150.00	200.00	300.00		100.00	1200.00
National Servicemens Association of Aust Tuggerah Lakes Sub Branch (\$700)	Public Address System for outdoor and indoor events			500.00		200.00						700.00
Toowoomba Bay Surf Life Saving Club (\$2000)	Installation of Solar Hot Water System	100.00	200.00	250.00		500.00					950.00	2000.00
Total Proposed Allocations for 13/02/2013		550.00	600.00	1,500.00	335.17	1,450.00	300.00	200.00	550.00	0.00	1,904.00	7,389.17
Total Accumulated Allocations as at 13/02/2013		1,850.00	1,300.00	2,500.00	335.17	2,080.00	800.00	200.00	550.00	3,550.00	2,276.02	15,441.19
Balance Uncommitted as at 13/02/2013		5,650.00	6,200.00	5,000.00	7,164.83	5,420.00	6,700.00	7,300.00	6,950.00	3,950.00	5,223.98	59,558.81

Watanobbi Neighbourhood Watch

Watanobbi Neighbourhood Watch Group applied for a CCIG 'to cover costs associated with organisation of a Watanobbi Australia Day community event on 26 January 2012'. Council approved the allocation of \$100 at its meeting held on 23 January 2013. The funds were not used for this purpose.

The group has since requested that the purpose of the grant be amended to assist the group in becoming registered under the NSW Fair Trading Act. This registration is required in order for the group to properly administer obligations.

It is recommended that the change in purpose of the grant be supported.

OPTIONS

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

STRATEGIC LINKS

Annual Plan

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

Contribution of Proposal to the Principal Activity

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

Link to Shire Strategic Vision

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i>
Communities - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.
Facilities and Services - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.

Financial Implications

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

Principles of Sustainability

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

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

CONSULTATION

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

GOVERNANCE

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

CORPORATE RISKS

Nil impact.

CONCLUSION

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

ATTACHMENTS

Nil

5.3 Rural Fire Fighting Fund Estimate 2013/14

TRIM REFERENCE: F2013/00078 - D03260035

MANAGER: Robert Fulcher, Manager Asset Management

AUTHOR: Paul Ogden; Assistant Manager

SUMMARY

A proposal for the 2013/14 financial year Rural Fire Service (RFS) district estimate of probable expenditure (bid), in an amount of \$5,444,152 is submitted for approval.

RECOMMENDATION

- 1 That Council endorse the submitted RFS bid estimate of probable expenditure for the 2013/14 financial year being (11.7% of \$5,444,152) \$636,966 understanding that a further \$234,000 will be added to the approved bid accommodating other Statewide Support Items generally (11.7% of \$2,000,000).***
- 2 That Council endorse the proposal that it will not supplement the RFS bid by making any contributions beyond its required 11.7% contribution apart from matters that have been identified and funded in the 2013/14 Service Unit Business Plans and associated budgets.***

BACKGROUND

All NSW Councils have a legislative responsibility to pay a contribution towards the amount of the estimated Fire Fighting expenditure applicable to the rural fire district. This amount is currently 11.7% of the rural fire brigade contribution payable for each rural fire district, as determined by the Minister for Police and Emergency Services (Minister).

The RFS has submitted a proposed expenditure bid totaling \$5,444,152. The expenditure is made up as follows:

Annual Maintenance and Repairs	\$458,657.00
Appliances	\$607,683.00
Second Hand Appliances	\$0.00
Other Vehicles	\$58,000.00
Equipment	\$284,000.00
Brigade Stations	\$350,000.00
Reimbursable Items	\$224,422.00
Hazard Reduction	\$2,155,615.00
District Staff Estimate	<u>\$1,305,775.00</u>
Total	<u>\$5,444,152.00</u>

Historically the only input staff have had to preparation of the bid submission is within the Hazard Reduction component (through estimates identified through the current Sustainability Unit). The last two financial years have seen significant increases in this component of the submission, from \$123,272 in 2011/12 to \$1,301,655 in 2012/13 and \$2,155,615 in 2013/14. That estimate for 2013/14 includes an amount of \$1,185,900 for capital works.

Separate provision has been made in the Council's own draft 2013/14 Capital Expenditure Programme for Hazard Reduction work to include \$400,000 of Asset Protection Zone and fire trail renewals and \$490,000 for upgrading of those council assets.

Council is required to contribute 11.7% of the amount approved by the Minister therefore, if the Minister approved the full \$2,155,615 for both operational and capital hazard reduction work, council would be required to contribute 11.7% of this amount, equaling \$252,207.

Council has prepared its own internal budget estimates for Emergency Management Services 2013/14, as part of its normal planning process. That estimate has been prepared with a view to council's limited level of funds.

NSW RFS determine the timing and type of replacement vehicles, equipment and Personal Protective Equipment (PPE) for all local area brigades based entirely on the number of volunteers and the historical type of work performed.

Historically Council has endorsed the RFS bid with minor alteration and has supplemented, from its own funds, any short fall between the submitted estimates and Ministerial approved budget. Generally that short fall has been approximately \$200K- \$300K within the annual maintenance and repairs budget component that covers building and fleet maintenance.

As a result, council has been contributing more than its required 11.7% rate to the RFS. This is another example of cost shifting and, in view of the tightening situation with council's own funds, needs to be reviewed.

CURRENT STATUS

The NSW Rural Fire Service Commissioner is currently awaiting Council endorsement of the attached 2013/2014 Rural Fire Fighting Fund Estimates to submit to the Minister.

Council's current budget estimates provision allows sufficient funds for council to meet its required 11.7% share of the proposed bid of \$5,444,152. In addition to this bid the Minister determines an expenditure level for general statewide items. That amount is expected to be \$2,000,000 involving a council contribution of \$234,000 which also is affordable with Council's current budget estimates.

RFS has the expectation that Council will supplement any short fall between the RFS submitted and approved bids and will contribute additional funds for the maintenance of all RFS buildings. That expectation needs to be considered. If the RFS chooses not to fund requested levels of expenditure on the assets that it uses for fire management purposes, it is not reasonable to expect council to amend its own priorities to fund work that the RFS itself has not determined to be its priority.

There is no provision in council's estimates for 2013/14 for funding to supplement any amount of shortfall between the RFS submitted and approved bids. The total of council's contribution towards the RFS bid is included in the budget submission of the Waterways and Asset Management Unit for 2013/14. Other stakeholder units have not made any specific provision in their budgets for the asset classes they manage to supplement any shortfall in the RFS bid.

THE PROPOSAL

It is proposed that:

- Council endorse the attached 2013/2014 Rural Fire Fighting Fund Estimates.
- Council agree to contribute no more than its required 11.7% of the Bush Fire Expenditure determined by the Minister.
- Council agree, except under extraordinary circumstances, or unless other grant funds can be obtained from other sources, it will not use its own funds to supplement any budget shortfall between submitted and approved bids and that proposed levels of fire fighting service will need to be managed by the RFS and council staff to match the available funds

OPTIONS

1. Do nothing- the Minister will determine Council's contribution estimate and enforce payment.
2. Endorse budget estimate only- Council will be expected to supplement any budget shortfall.
3. Endorse budget estimate and agree to not supplement shortfall between submitted and approved bids. There will be improved budget stability for any given financial year.

STRATEGIC LINKS

Wyong Shire Council Strategic/ Annual Plan

<i>Principal Activity</i>	<i>Service</i>	<i>Key Action and Objectives</i>	<i>Funding Source and Description</i>	<i>Impact on Key Performance Indicators/ Service Performance Indicators</i>
Emergency Management	Rural Fire Service	Timely payment of legislative monetary contributions to the Rural Fire Fighting Fund. RFS Act 1997 s 107- The total amount of contributions to be paid for a financial year by councils- 11.7%.	General Fund	Will allow compliance

Contribution of Proposal to the Principal Activity

This proposal forms part of the key actions and objectives portion of the Emergency Management principal activity.

Long term Financial Strategy

The proposal is aligned to the Long term financial strategy as the predicted RFS budget has been included in the four year delivery program.

Asset Management Strategy

Nil impact

Workforce Management Strategy

Nil Impact

Link to Community Strategic Plan (2030)

Nil Impact

Budget Impact

Nil impact as the proposal is affordable within the current budget of the Waterways and Asset Management Unit.

CONSULTATION

Nil Impact

GOVERNANCE AND POLICY IMPLICATIONS

Nil impact

MATERIAL RISKS AND ISSUES

Nil Impact

CONCLUSION

Being legislatively required to support the RFS budget bid and to ensure best practice management of the RFS budget it is the recommendation of staff for Council to approve the attached bid and to agree that no further Council funds be used to supplement any budget shortfall between submitted and approved bids.

ATTACHMENTS

1 RFS 2013_14 Completed Estimates to WSC for GM Sig D03265180

2013/2014 Rural Fire Fighting Fund Estimates

Summary Page

WYONG SHIRE COUNCIL

Annual Maintenance and Repairs....	\$458,657.00
Appliances	\$607,883.00
Second Hand Appliances	\$0.00
Other Vehicles	\$58,000.00
Equipment	\$284,000.00
Brigade Stations	\$350,000.00
Reimbursable Items	\$224,422.00
Hazard Reduction	\$2,155,615.00
District Staff Estimate.....	\$1,305,775.00
Total	\$5,444,152.00

I hereby certify that above figures are true and fair estimate of the anticipated expenditure from the Rural Fire fighting Fund in respect of this council for this financial year. The council will comply with Sections 109 and 110 of the Rural Fires Act, when meeting its statutory contribution.

General Manager

Date:

2013/2014 Rural Fire Fighting Fund Estimates

1st July 2012 to 30th June 2013

Annual Repairs and Maintenance

WYONG SHIRE COUNCIL

Maintenance Stations Sheds		\$66,400.00
Maintenance Vehicles		\$140,000.00
Maintenance Pumps		\$0.00
Maintenance Radio		\$6,000.00
Maintenance Petrol Oil		\$50,000.00
Maintenance Other		\$49,100.00
Fire Extinguisher M&R	\$3,600.00	
First Aid Kit M&R	\$5,000.00	
CABA M&R & Refills	\$9,000.00	
Cleaning FCC	\$18,000.00	
Brigade Subsidy M&R	\$13,500.00	
	\$0.00	
Freight Cartage		\$100.00
Telephone Rental		\$10,000.00
Telephone Calls		\$20,000.00
Electricity		\$50,000.00
Insurance Vehicles		\$0.00
Insurance Sheds		\$10,577.00
Insurance Other		\$0.00
First Aid Training		\$0.00
Training Subsidy Brigade		\$3,000.00
ERS Paging Subsidy		\$0.00
Other Total		\$53,480.00
Incident Coordination Expenses	\$4,500.00	
RFS Core & Specialised Training Expenses	\$17,480.00	
Community Safety & Risk Management	\$17,480.00	
Driving Licence Assessments	\$9,000.00	
BA Medicals	\$5,000.00	
Total Section B		\$458,657.00

2013/2014 Rural Fire Fighting Fund Estimates WYONG SHIRE COUNCIL
 Listing of Appliances Ordered [by Description]

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Item No	Item	Price	Stock No	Item Description	Quantity	Extended Cost
301003	APPLIANCE - CAT 1 CREW CAB VILLAGE	\$284,000.00		FOUR WHEEL DRIVE (4X4) CREW CAB VILLAGE TYPE APPLIANCE INCORPORATING 3500 LITRE TANK, 5 FULL LOCKERS, CLASS 4 DIESEL POWERED PUMP, 1 X 19MM(ID) X 60M HOSE REEL, 1 X 25MM(ID) X 50M HOSE REEL, PVC DELIVERY HOSE, NOZZLES, LIGHTS, SIREN, FOAM PROPORTIONER, ACCESS LADDER AND BRACKET, PUMP CONTROLS IN CABIN, THERMAL INSULATION ON RUBBER BRAKE AND FUEL LINES, RING CABIN SPRAY PROTECTION SYSTEM, FRONT SPRAY BAR, RADIATION CURTAINS, SIX FIRE BLANKETS AND HOLDER, GRNIPMR RADIO FITTED, CLASS 7 PORTABLE PUMP, AIR CONDITIONED CABIN, MAXIMUM CREW OF 6.	1	\$284,000.00
301110	APPLIANCE - CAT 1 DISPOSAL CREW CAB 6-10 YEARS OLD	-\$93,750.00		THIS IS A CATEGORY 1 UNIT AGED BETWEEN 6-10 YEARS OF AGE THAT YOU WISH TO DISPOSE OF. THE TANKER MUST BE A UNIT THAT WAS BUILT THROUGH THE SERVICES APPLIANCE CONSTRUCTION PROGRAM. IT MUST BE IN REASONABLE CONDITION AND CONTAIN ALL EQUIPMENT THAT WAS ORIGINALLY PROVIDED WITH THE UNIT.	1	-\$93,750.00
313001	APPLIANCE - CAT 13 - BULK WATER CARRIER	\$306,000.00		6 x 4 SINGLE CAB CHASSIS INCORPORATING 11000 LITRE TANK, 1 FULL SIZE LOCKERS, CLASS 9 DIESEL POWERED PUMP, LIGHTS, SIREN, STORAGE FOR 10 000L BUDY WALL DAM, THERMAL INSULATION ON RUBBER BRAKE AND FUEL LINES, GRNIPMR RADIO FITTED, 3 FIRE BLANKETS AND HOLDER FITTED, CLASS 8 FAST FILL PUMP, AIR CONDITIONED CABIN, MAXIMUM CREW OF 3.	1	\$306,000.00
309000	APPLIANCE - CAT 9 STRIKER / MOP UP UNIT	\$105,000.00		INITIAL ATTACK / MOP UP UNIT, FOUR WHEEL DRIVE (4 X 4), SINGLE CABIN APPLIANCE INCORPORATING A 600 LITRE TANK, SUPPLIED WITH LIGHTS, SIRENS, CLASS 1 DIESEL PUMPS WITH CONTROL PANEL AND FOAM PROPORTIONING SYSTEM, 30M HOSE REEL WITH PVC DELIVERY HOSE AND NOZZLE, RING CABIN SPRAY PROTECTION, RADIATION CURTAINS, 2 FIRE BLANKETS, GRNIPMR RADIO FITTED, CLASS 6 PORTABLE PUMP, AIR CONDITIONED CABIN, MAX CREW OF 2.	1	\$105,000.00
301003N	CABA BRACKETS FOR FITMENT TO CAT 1 VILLAGE APPLIANCE	\$1,864.00		DUAL PULL DOWN CABA BRACKETS FITTED TO FRONT LOCKER ON CAT 1 VILLAGE APPLIANCE	1	\$1,864.00
301003L	GENERATOR, 3kva FOR INCLUSION ON CAT 1 CREW CAB VILLAGE APPLIANCE	\$1,504.00		3.3 kva 240V GENERATOR FOR INCLUSION ON CAT 1 APPLIANCE. COST INCLUDES PROVISION OF UNDER TRAY LOCKABLE STOWAGE UNIT WITH SLIDE OUT RACK.	1	\$1,504.00
301003H	PUMP CONTROLS, AUXILIARY IN WORK AREA FOR CAT 1 CREW CAB VILLAGE APPLIANCE	\$1,499.00		AUXILIARY PUMP CONTROLS FOR MAIN PUMP, LOCATED IN WORK AREA, FOR INCLUSION ON CAT 1 APPLIANCE	1	\$1,499.00
301003K	PUMP, FAST FILL FOR CAT 1 CREW CAB VILLAGE APPLIANCE	\$1,766.00		PETROL POWERED FAST FILL PUMP FOR INCLUSION ON CAT 1 APPLIANCE. COST INCLUDES PROVISION OF ADDITIONAL LOCKABLE STOWAGE UNIT WITH SLIDE OUT RACK	1	\$1,766.00

2013/2014 Rural Fire Fighting Fund Estimates WYONG SHIRE COUNCIL
Listing of Appliances Ordered [by Description]

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Item No	Item	Price	Stock No	Item Description	Quantity	Extended Cost	
						Total of Equipment Items	\$607,663.00

2013/2014 Rural Fire Fighting Fund Estimates

Second Hand Appliances

WYONG SHIRE COUNCIL

Brigade Name	Vehicle Make Model	Additional or Replacement	Source	Amount
			Total	\$0.00

2013/2014 Rural Fire Fighting Fund Estimates

Other Vehicles

WYONG SHIRE COUNCIL

Brigade Name	Vehicle Make Model	Additional, Replacement or New	Source	Amount
Group Officer	Ford Ranger Crew Cab XL U	Additional	Department	\$58,000.00
			Total	\$58,000.00

2013/2014 Rural Fire Fighting Fund Estimates

Equipment

WYONG SHIRE COUNCIL

Pumps	\$2,000.00
PPE	\$95,000.00
Enhancements	
Community Safety	\$10,000.00
DeContamination Services	\$2,000.00
Fire Fighting Equipment	\$175,000.00
Total	\$284,000.00

2013/2014 Rural Fire Fighting Fund Estimates

Brigade stations

WYONG SHIRE COUNCIL

Brigade Name	Category of Brigade Station	Amount
Mannerin Park	Extensions	\$350,000.00
Total		\$350,000.00

2013/2014 Rural Fire Fighting Fund Estimates

Reimbursable Items

WYONG SHIRE COUNCIL

Description	Quantity	Cost	Amount
Other Programs L/G 11.7%	1	\$224,422.00	\$224,422.00
	0	\$0.00	\$0.00
		Total	\$224,422.00

2013/2014 Rural Fire Fighting Fund Estimates

District Estimates

WYONG SHIRE COUNCIL

Approved Staff No.		8
Current Staffing Level.....		8
Salaries		\$874,960.00
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Travel		\$2,000.00
Telephones		\$13,540.00
Equipment General		\$6,755.00
Equipment Computers		\$3,600.00
Network Provision		\$20,264.00
IS Services		\$132,549.00
<hr/>		
Approved No Of Vehicles		6
Est. No.Of Changeovers		1
Changeover Cost		\$14,500.00
Vehicle Maintenance		\$59,400.00
New Vehicles		\$0.00
<hr/>		
Other District Staff Items		\$178,207.00
Red Fleet	\$41,146.00	
GRN	\$137,061.00	
<hr/>		
	Total	\$1,305,775.00
		<hr/>

2013/2014 Rural Fire Fighting Fund Estimates

Hazard Reduction Applications

WYONG SHIRE COUNCIL

ID	Activity Name	Type	Applicant	Date	Bid Amount
269	Fountain Rd East Fire Trail	FTC	David Lemcke	18/12/2012	\$182,000.00
270	Fountain Rd Extension Fire Trail	FTC	David Lemcke	18/12/2012	\$148,000.00
268	Fountain Rd West Fire Trail	FTC	David Lemcke	18/12/2012	\$111,000.00
264	Fountaindale Reserve Fire Trail	FTM	David Lemcke	18/12/2012	\$12,000.00
265	Francis Bymes Fire Trail	FTM	David Lemcke	18/12/2012	\$18,000.00
263	Kangy Angy Fire Trail	FTC	David Lemcke	18/12/2012	\$44,900.00
266	Mardi Fire Trail	FTC	David Lemcke	18/12/2012	\$395,000.00
267	Pleasant Valley Fire Trail	FTC	David Lemcke	18/12/2012	\$275,000.00
238	Wyong Council - 1	HRM	David Lemcke	18/12/2012	\$20,267.34
206	Wyong Council - 10	HRM	David Lemcke	18/12/2012	\$12,116.34
178	Wyong Council - 100	HRM	David Lemcke	17/12/2012	\$36,991.56
179	Wyong Council - 101	HRM	David Lemcke	17/12/2012	\$25,471.86
253	Wyong Council - 103	HRM	David Lemcke	18/12/2012	\$5,638.23
233	Wyong Council - 104	HRM	David Lemcke	18/12/2012	\$6,113.25
234	Wyong Council - 105	HRM	David Lemcke	18/12/2012	\$1,450.29
254	Wyong Council - 106	HRM	David Lemcke	18/12/2012	\$2,684.87
180	Wyong Council - 107	HRM	David Lemcke	17/12/2012	\$2,527.91
148	Wyong Council - 108	HRM	David Lemcke	17/12/2012	\$7,269.81
149	Wyong Council - 109	HRM	David Lemcke	17/12/2012	\$18,817.05
207	Wyong Council - 11	HRM	David Lemcke	18/12/2012	\$6,517.12
260	Wyong Council - 110	HRM	David Lemcke	18/12/2012	\$5,273.36
189	Wyong Council - 111	HRM	David Lemcke	17/12/2012	\$2,106.29
235	Wyong Council - 112	HRM	David Lemcke	18/12/2012	\$771.05
190	Wyong Council - 113	HRM	David Lemcke	17/12/2012	\$1,101.49
191	Wyong Council - 114	HRM	David Lemcke	17/12/2012	\$275.37
192	Wyong Council - 115	HRM	David Lemcke	17/12/2012	\$110.15
193	Wyong Council - 116	HRM	David Lemcke	17/12/2012	\$45.90
255	Wyong Council - 117	HRM	David Lemcke	18/12/2012	\$6,309.33
194	Wyong Council - 118	HRM	David Lemcke	17/12/2012	\$458.95
195	Wyong Council - 119	HRM	David Lemcke	17/12/2012	\$6,481.44
208	Wyong Council - 12	HRM	David Lemcke	18/12/2012	\$218.92
196	Wyong Council - 120	HRM	David Lemcke	17/12/2012	\$7,905.91
197	Wyong Council - 121	HRM	David Lemcke	17/12/2012	\$146.86
256	Wyong Council - 122	HRM	David Lemcke	18/12/2012	\$3,313.64
198	Wyong Council - 123	HRM	David Lemcke	17/12/2012	\$45.90
181	Wyong Council - 125	HRM	David Lemcke	17/12/2012	\$2,661.92
237	Wyong Council - 126	HRM	David Lemcke	18/12/2012	\$4,295.79
150	Wyong Council - 127	HRM	David Lemcke	17/12/2012	\$22,488.67
151	Wyong Council - 128	HRM	David Lemcke	17/12/2012	\$19,826.74
152	Wyong Council - 129	HRM	David Lemcke	17/12/2012	\$4,405.94
209	Wyong Council - 13	HRM	David Lemcke	18/12/2012	\$23,333.14

2013/2014 Rural Fire Fighting Fund Estimates

Hazard Reduction Applications

WYONG SHIRE COUNCIL

ID	Activity Name	Type	Applicant	Date	Bid Amount
262	Wyong Council - 131	HRM	David Lemcke	18/12/2012	\$33,870.68
236	Wyong Council - 132	HRM	David Lemcke	18/12/2012	\$5,948.02
199	Wyong Council - 134	HRM	David Lemcke	17/12/2012	\$11,083.70
182	Wyong Council - 135	HRM	David Lemcke	17/12/2012	\$7,343.24
153	Wyong Council - 136	HRM	David Lemcke	17/12/2012	\$1,817.45
210	Wyong Council - 14	HRM	David Lemcke	18/12/2012	\$8,811.89
211	Wyong Council - 15	HRM	David Lemcke	18/12/2012	\$3,056.62
212	Wyong Council - 16	HRM	David Lemcke	18/12/2012	\$2,616.03
147	Wyong Council - 17	HRM	David Lemcke	17/12/2012	\$39,598.41
213	Wyong Council - 19	HRM	David Lemcke	18/12/2012	\$734.32
239	Wyong Council - 2	HRM	David Lemcke	18/12/2012	\$2,753.71
154	Wyong Council - 20	HRM	David Lemcke	17/12/2012	\$6,149.96
214	Wyong Council - 23	HRM	David Lemcke	18/12/2012	\$2,037.75
215	Wyong Council - 27	HRM	David Lemcke	18/12/2012	\$3,579.83
216	Wyong Council - 28	HRM	David Lemcke	18/12/2012	\$3,855.20
183	Wyong Council - 29	HRM	David Lemcke	17/12/2012	\$619.59
240	Wyong Council - 3	HRM	David Lemcke	18/12/2012	\$4,047.96
217	Wyong Council - 30	HRM	David Lemcke	18/12/2012	\$4,846.54
218	Wyong Council - 31	HRM	David Lemcke	18/12/2012	\$11,774.88
219	Wyong Council - 32	HRM	David Lemcke	18/12/2012	\$22,346.39
220	Wyong Council - 33	HRM	David Lemcke	18/12/2012	\$2,294.76
221	Wyong Council - 34	HRM	David Lemcke	18/12/2012	\$826.11
222	Wyong Council - 35	HRM	David Lemcke	18/12/2012	\$826.11
223	Wyong Council - 36	HRM	David Lemcke	18/12/2012	\$1,569.62
155	Wyong Council - 37	HRM	David Lemcke	17/12/2012	\$21,901.21
156	Wyong Council - 38	HRM	David Lemcke	17/12/2012	\$29,868.62
157	Wyong Council - 39	HRM	David Lemcke	17/12/2012	\$22,064.13
201	Wyong Council - 4	HRM	David Lemcke	18/12/2012	\$3,010.73
158	Wyong Council - 40	HRM	David Lemcke	17/12/2012	\$9,454.42
261	Wyong Council - 41	HRM	David Lemcke	18/12/2012	\$413.06
241	Wyong Council - 42	HRM	David Lemcke	18/12/2012	\$4,405.94
159	Wyong Council - 43	HRM	David Lemcke	17/12/2012	\$1,239.17
184	Wyong Council - 44	HRM	David Lemcke	17/12/2012	\$2,313.12
160	Wyong Council - 46	HRM	David Lemcke	17/12/2012	\$536.97
161	Wyong Council - 47	HRM	David Lemcke	17/12/2012	\$3,052.03
162	Wyong Council - 48	HRM	David Lemcke	17/12/2012	\$44,224.65
163	Wyong Council - 49	HRM	David Lemcke	17/12/2012	\$16,889.45
202	Wyong Council - 5	HRM	David Lemcke	18/12/2012	\$7,067.87
257	Wyong Council - 50	HRM	David Lemcke	18/12/2012	\$9,995.98
258	Wyong Council - 51	HRM	David Lemcke	18/12/2012	\$6,388.62
164	Wyong Council - 52	HRM	David Lemcke	17/12/2012	\$5,507.43

2013/2014 Rural Fire Fighting Fund Estimates

Hazard Reduction Applications

WYONG SHIRE COUNCIL

ID	Activity Name	Type	Applicant	Date	Bid Amount
165	Wyong Council - 53	HRM	David Lemcke	17/12/2012	\$10,739.48
259	Wyong Council - 54	HRM	David Lemcke	18/12/2012	\$6,168.32
166	Wyong Council - 55	HRM	David Lemcke	17/12/2012	\$3,501.13
167	Wyong Council - 56	HRM	David Lemcke	17/12/2012	\$2,533.42
168	Wyong Council - 57	HRM	David Lemcke	17/12/2012	\$6,194.37
242	Wyong Council - 58	HRM	David Lemcke	18/12/2012	\$3,533.93
243	Wyong Council - 59	HRM	David Lemcke	18/12/2012	\$1,321.78
203	Wyong Council - 6	HRM	David Lemcke	18/12/2012	\$10,877.17
185	Wyong Council - 60	HRM	David Lemcke	17/12/2012	\$1,652.23
224	Wyong Council - 61	HRM	David Lemcke	18/12/2012	\$2,092.82
200	Wyong Council - 62	HRM	David Lemcke	17/12/2012	\$8,683.38
225	Wyong Council - 63	HRM	David Lemcke	18/12/2012	\$5,489.07
226	Wyong Council - 65	HRM	David Lemcke	18/12/2012	\$1,431.93
227	Wyong Council - 67	HRM	David Lemcke	18/12/2012	\$13,493.20
169	Wyong Council - 68	HRM	David Lemcke	17/12/2012	\$1,404.39
228	Wyong Council - 71	HRM	David Lemcke	18/12/2012	\$2,478.34
244	Wyong Council - 72	HRM	David Lemcke	18/12/2012	\$13,327.98
245	Wyong Council - 73	HRM	David Lemcke	18/12/2012	\$5,727.73
229	Wyong Council - 74	HRM	David Lemcke	18/12/2012	\$4,583.56
230	Wyong Council - 75	HRM	David Lemcke	18/12/2012	\$440.59
246	Wyong Council - 76	HRM	David Lemcke	18/12/2012	\$29,629.96
186	Wyong Council - 77	HRM	David Lemcke	17/12/2012	\$19,620.21
187	Wyong Council - 78	HRM	David Lemcke	17/12/2012	\$1,018.87
204	Wyong Council - 8	HRM	David Lemcke	18/12/2012	\$371.75
188	Wyong Council - 80	HRM	David Lemcke	17/12/2012	\$53,983.81
170	Wyong Council - 82	HRM	David Lemcke	17/12/2012	\$24,838.50
247	Wyong Council - 84	HRM	David Lemcke	18/12/2012	\$12,171.42
248	Wyong Council - 85	HRM	David Lemcke	18/12/2012	\$8,062.87
171	Wyong Council - 86	HRM	David Lemcke	17/12/2012	\$3,221.85
172	Wyong Council - 87	HRM	David Lemcke	17/12/2012	\$1,941.37
249	Wyong Council - 88	HRM	David Lemcke	18/12/2012	\$2,533.42
173	Wyong Council - 89	HRM	David Lemcke	17/12/2012	\$3,568.81
205	Wyong Council - 9	HRM	David Lemcke	18/12/2012	\$11,244.33
250	Wyong Council - 90	HRM	David Lemcke	18/12/2012	\$6,769.66
174	Wyong Council - 91	HRM	David Lemcke	17/12/2012	\$22,084.79
231	Wyong Council - 93	HRM	David Lemcke	18/12/2012	\$6,737.42
175	Wyong Council - 95	HRM	David Lemcke	17/12/2012	\$3,469.68
251	Wyong Council - 96	HRM	David Lemcke	18/12/2012	\$3,976.15
252	Wyong Council - 97	HRM	David Lemcke	18/12/2012	\$4,571.17
176	Wyong Council - 98	HRM	David Lemcke	17/12/2012	\$8,738.45
177	Wyong Council - 99	HRM	David Lemcke	17/12/2012	\$3,301.49

2013/2014 Rural Fire Fighting Fund Estimates

Hazard Reduction Applications

WYONG SHIRE COUNCIL

ID	Activity Name	Type	Applicant	Date	Bid Amount
Hazard Reduction Total					\$2,165,615.00

2013/2014 Rural Fire Fighting Fund Estimates

Priority Listing

WYONG SHIRE COUNCIL

Priority 1:	PPE	Priority 11:
Priority 2:	Replacement Tan	Priority 12:
Priority 3:	General Equipmen	Priority 13:
Priority 4:		Priority 14:
Priority 5:		Priority 15:
Priority 6:		Priority 16:
Priority 7:		Priority 17:
Priority 8:		Priority 18:
Priority 9:		Priority 19:
Priority 10:		Priority 20:

2013/2014 Rural Fire Fighting Fund Estimates

Administrative Details

WYONG SHIRE COUNCIL

Delivery Name	NSW Rural Fire Service
Delivery Address	The Lakes Team
(Delivery Address)	105 Arizona Road
Delivery Town	Charmhaven NSW
Delivery Post Code	2263
Delivery Enquiry Name	Kristen Peace
Delivery EnquiryTitle	Business Officer
Delivery Enquiry Phone	0249144500
Delivery Enquiry Fax	0249144530
EEmail Address	thelakes.team@rfs.nsw.gov.au

5.4 Selection of Community Members for the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee

TRIM REFERENCE: F2004/07986 - D03264601

MANAGER: Robert Fulcher, Manager Asset Management

AUTHOR: Peter Sheath; Senior Planning Engineer Hydrology

SUMMARY

The report details the results from the public expression of interest process for community representatives for the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee such that Council can make the appointments.

RECOMMENDATION

- 1 That Council consider the applications from the public expression of interest process.**
- 2 That Council appoint three community representatives for the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee.**
- 3 That Council note that the attachments to this report contain a full copy of each of the eight Expressions of Interest, which remain confidential in accordance with s10A(2)(a) of the LGA as it contains personnel matters concerning particular individuals (other than Councillors).**

BACKGROUND

At its meeting of 14 November 2012 Council set out the process to appoint community members of the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee, as follows (421/12):

1. The number of community representatives be set at 3 to be appointed via a public expression of interest process.
2. That this public expression of interest process be reported back to Council at a briefing to identify the most meritorious candidates.
3. Once this process is complete a report to Council be made recommending the 3 community representatives.

REPORT

A three-week public expression of interest period was held from 21 January 2013 to 8 February 2013. The communication process to advertise the positions included:

- Shirewide News within the Express Advocate (30/1/13 and 6/2/13)
- Advertisement in the Express Advocate (23/1/13, 30/1/13, 6/2/13)

5.4 Selection of Community Members for the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee (contd)

- Social media on Facebook and Twitter during 21/1/13 and 7/2/13
- Council's website
- Letters to past members of the Committee

Community members were asked to submit a written Expressions of Interest (EOI) for one of the three (3) vacant positions. This EOI was to include the following:

- Name, address and contact details (email and/or phone)
- Why the community member is interested in being appointed to the committee
- How the community and committee can benefit from the applicant being appointed

Eight applications were received during the EOI period. A full copy of each of the applications is attached, as follows:

- Six applications were received on Council's Consultation Hub (Confidential Attachment 1).
- Two applications were received separately in writing (Confidential Attachments 2 & 3).

On 13 February 2013 the Director of Infrastructure & Operations briefed Councillors on the public expression of interest process as per the second resolution item above.

Council is now adequately equipped to consider the applications from the public expression of interest process and appoint three community representatives.

ATTACHMENTS

- | | | |
|----------|---|-----------|
| 1 | EOIs received on Council's Consultation Hub - | D03265571 |
| 2 | EOI Marlene Pennings - | D03264598 |
| 3 | EOI Rodney Slater - | D03263489 |

5.5 Results of Public Exhibition of Draft DCP 2005: Chapter 14 - Tree Management

TRIM REFERENCE: F2005/02982 - D03257860

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

AUTHOR: Peter Kavanagh; Senior Planner

SUMMARY

This report details the results of the recent public exhibition of Draft Development Control Plan 2005: Chapter 14 – Tree Management. It identifies the submissions received and recommends that draft Chapter 14 be adopted by Council and appropriate notification be given.

RECOMMENDATION

- 1 That Council adopt Draft Development Control Plan 2005: Chapter 14 - Tree Management and appropriate public notice be given within 28 days that the draft Chapter will come into effect as Chapter 14 within DCP 2005 on the date identified within the notice;**
- 2 That Council forward a copy of DCP 2005 containing the amended Chapter 14 to the Director General of the NSW Department of Planning within 28 days.**
- 3 That Council note s.149 Certificates as to the adoption of Chapter 14.**

BACKGROUND

Development Control Plan No. 2005: Chapter 14 - Tree Management details Council's expectations and requirements for the management of trees and native vegetation when planning, designing and constructing development. It aims to minimise unnecessary injury to, or destruction of trees and native vegetation, to retain healthy individual trees of local amenity and aesthetic value and to facilitate the removal of undesirable exotics, noxious weeds, dangerous trees and any other inappropriate plantings, and to replace these with suitable local indigenous species which will positively contribute to visual and environmental amenity and ecological sustainability.

The DCP Chapter also aims to retain viable representative samples of native vegetation, which have an intact structure and complete floristics, wherever practicable, to detail legislation and controls relevant to vegetation issues and Council's requirements for the submission of sufficient and relevant information by applicants for development consent for the removal of individual trees.

Further, the DCP Chapter also details locations where the removal of non-significant trees can be categorised as Exempt Vegetation Management Works. In these locations, following confirmation of the tree species and with appropriate care for any wildlife, the tree can be removed without making application to Council.

5.5 Results of Public Exhibition of Draft DCP 2005: Chapter 14 - Tree Management (contd)

At its meeting of 28 November 2012, Council resolved as follows:

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

539/12 That Council amend its Development Control Plan 2005: Chapter 14 - Tree Management;

7.1.1 *“Plants with undesirable characteristics” due to location. Now to read “trees located within (6) metres of an approved residential structure and (12) metres of a non residential approved structure, will be considered to be undesirable due to their location”.*

540/12 That Council also vary clause;

7.1.2 *“Plants with undesirable characteristics generally” to now read “all trees that are of non native species”*

541/12 That Council staff follow the statutory process with regards to amendments to DCP Chapter 14.

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

AGAINST: NIL”

CURRENT STATUS

Following Council’s Resolution of 28 November, 2012, the proposed amendments to Chapter 14 were placed on public exhibition in accordance with statutory requirements. Having regard to the holiday period the exhibition was extended by 14 days.

THE PROPOSAL

The amendments to Chapter 14 are as a result of the Resolution of Council on 28 November 2012. To implement this resolution it has been necessary to amend the DCP Chapter in the following manner:

- Amend the definition of “approved structure” to include a reference to *commercial or industrial buildings*;
- Amend s.2.3 to clarify the example given - that the new provisions (6m of an approved structure in residential areas, or 12m of an approved structure in non residential areas) are included in s.4 as Exempt Vegetation Management Works;
- Amend s.4.1 (j) (ii) and (vi) in order to explain clearing permitted for new buildings and exempt works permitted near existing approved buildings;
- Amend Figure 1 and Figure 2 to explain new distances;
- Amend s.7.1.1 to provide new exemption distances;

5.5 Results of Public Exhibition of Draft DCP 2005: Chapter 14 - Tree Management (contd)

- Amend s.7.1.2 to exempt all exotic trees (those of non native species), excepting those listed under s.7.2.5; and
- Remove reference in s.7.2.5 to trees at 100 Shirley Street, Ourimbah, as these trees were in significant decline and consent has been issued enabling their removal.

OPTIONS

1 Do Nothing

Under this option the operation of Chapter 14 would continue without change. Non-significant trees within 3m of approved structures and less than 6m in height would remain defined as Exempt Vegetation Management Works in all zones. Council would continue to receive tree removal applications, together with the associated application fees, for trees located outside these distances.

Not recommended.

2 Adopt amendments proposed within submission

Under this option Council would adopt the content of a submission by a resident which recognises the increased fire danger from gum trees when residences are adjacent to Council bush reserves:

- For exotics - 3m exemption across Shire to remain
- For gum trees - 6m exemption for residents not near a bush reserve
- For gum trees - 12m exemption next to a bush reserve
- For gum trees - 15m exemption next to a bush reserve when radius of canopy reaches 3m.

It is considered that whilst the concerns of bushfire emanating from bushland reserves are real, Council already has a responsibility to mitigate the risk to adjacent properties emanating from Council controlled lands, and annually develops works programs to address these risks. Council also has responsibilities to protect the environment and to improve or maintain biodiversity, and needs to maintain reasonable limitations on tree removals. The suggested exemption distances are considered to be excessive in this regard. There is always the ability for residents to make application for the removal of trees outside the exempt distances, which are assessed on their merits.

Not recommended.

3 Adopt an exempt distance of 6m in all urban zones

Under this option a consistent measurement to mitigate risk would apply across the urban areas of the Shire regardless of the zoning, enabling a clear and consistent understanding of requirements. Whilst Councillors identified that in rural zones there is the potential for larger trees and greater fire risk, these issues are normally addressed through the identification and approval of an Asset Protection Zone when developments are approved. The APZ would normally exceed 12 metres in any event and the maintenance of the APZ (mitigating the fire risk) would be a requirement of the development consent. Further exempt vegetation management works are enabled on rural land as Routine Agricultural Management Activities (RAMAs) under the Native Vegetation Act, 2003. There is therefore no real need to identify an exempt vegetation management zone on land within rural and environmental living zones.

It can be noted that adjoining Councils use this system (e.g., LMCC have adopted a distance of 5m and GCC have adopted 3m).

Supported by staff, yet not the recommended option.

4 Adopt proposed amendments as exhibited

Under this option the defined Exempt Vegetation Management Works would extend to non-significant trees within 6m of an approved structure in residential areas, or 12m of an approved structure in non residential areas. Council would not receive applications for tree removal, or the associated fees, for trees of any height and located between 3m and 6m from approved structures in residential areas, and between 3m and 12m in non-residential areas. This will see an associated fall in revenue from applications.

The changes may result in a greater percentage of trees removed, particularly in residential areas, with resulting amenity loss. However, as trees are expensive to remove, the changes are unlikely to result in wholesale and rapid change. As most trees are ground to stump level with the root ball remaining in situ, soil erosion is minimized.

Council would continue to receive tree removal applications, together with the associated application fees, for trees located outside the exemption distances.

Recommended.

STRATEGIC LINKS

Wyong Shire Council Strategic/ Annual Plan

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Community	Nil Impact	Nil Impact
A More Sustainable Economy	Job creation	Nil Impact
A More Sustainable Environment		Nil Impact
Infrastructure	Nil Impact	Nil Impact
Organisation	Providing clarity for the community consultants, arborists and workers within the industry.	Nil Impact

Contribution of Proposal to the Principal Activity

The application of common controls will reduce the potential for confusion in the community and provide clarity for consultants, arborists and workers within the industry.

Budget Impact

Council would not receive applications for tree removal, or the associated fees, for trees of any height and located between 3m and 6m from approved structures in residential areas, and between 3m and 12m in non-residential areas. This will see an associated fall in revenue from the reduction in Tree Applications. The current application fee is \$110.00. This will reduce the income for the budget of the Development and Building Department.

Where applicants propose the removal of trees listed in the Significant Species Schedules (s.7.2), such applications are required to be supported by a report by a consulting arborist and/or ecologist (such reports would cost in the order of \$300.00 + \$50.00 per tree assessed).

CONSULTATION

The proposal was placed on public exhibition in local newspapers and on Council's website, at Council's Administration building in Wyong and at Council's Libraries at LakeHaven, Tuggerah and The Entrance. The public exhibition was conducted from Wednesday 19 December until Wednesday 30 January, 2013. **10** written submissions were received, summarised as follows:

Written Submissions were received from **4** Organisations and **5** Individuals:

- **9** Objecting / seeking an extended exhibition period; and
- **1** Supporting the amendments (with qualifications).

Doc No:	Issues Raised
D03251842	<ul style="list-style-type: none"> • Seeking extension of the exhibition period to 20 April, noting many residents were away on Christmas holidays.
D03251857	<ul style="list-style-type: none"> • Seeking extension of the exhibition period by 6 weeks, noting Precinct Committees are not meeting over the holiday period and many residents are away.
D03252310	<ul style="list-style-type: none"> • Trees will not be given sufficient protection • Significant numbers of trees will be cleared – decrease in amenity of localities • Impact on air quality, lakes and natural surrounds
D03252512	<ul style="list-style-type: none"> • Short exhibition – request extension • Great damage throughout Shire • Residents on holidays • Trees maintain a healthy environment • Impact on fauna, bats, birds and mammals
D03253197	<ul style="list-style-type: none"> • Strongly object to the proposed amendments as they will result in significant long-term adverse impacts on the Shire. • Impacts on land productivity, salinity, erosion, biodiversity, habitat and rainfall. • Contrary to aims of DCP, to <i>protect and enhance</i>, changes should be abandoned. • Contrary to “Stepping Stones wildlife corridor” – Council is a partner. • Out of step with other Councils – trees are recognised as financial and natural assets, adding value, character and attractiveness, controlling temperature, reducing reliance on air conditioning and water consumption • Trees: purify air and filter stormwater, prevent erosion and runoff into estuaries and lakes, provide protection from strong winds, maintain biodiversity, protect and harbour fauna, provide food, connectivity and shelter. • Council should educate the community on the value of trees, emphasise local trees, require planting of replacement trees, and model environmental best practice
D03253241	<ul style="list-style-type: none"> • Amendments will lead to increased runoff and sediment entering Tuggerah Lakes and reduced amenity of many suburbs. • Council will need a strategy to capture additional runoff and sediments, and to increase weed harvesting to compensate for decreased water quality. • Reason for amendments not clear – should have been discussed with community organisations • Proposal leaves only 10% of average lot protected from thoughtless destruction • Council should consult more widely
D03253351	<ul style="list-style-type: none"> • Amendments will create a tree-less landscape – no trees in front setbacks, etc • Amendments contrary to Council's policies for sustainable development • No shade, decreased energy and water efficiency • Amendments will accelerate the decrease in biodiversity in the Shire
D03253703	<ul style="list-style-type: none"> • Wyong Shire boasts the first Bushcare Group in NSW – countless hours of effort and personal finance since 1981 • Now Council is proposing the disgusting concept of unlimited tree removal • Degraded Tuggerah Lakes is due to vegetation removal in the lakes vicinity • Makes a mockery of government grants for lakes restoration projects • Council should be providing 2 endemic trees per household to improve biodiversity • Trees provide shade, shelter, fruits, privacy, oxygen, wind breaks, timber for houses, bridges, boats and furniture, etc
D03254607	<ul style="list-style-type: none"> • Horrified by proposal • Contrary to objectives of DCP • Proposal will permit the removal of every tree along Main roads, changing neighbourhoods • Trees provide food and shelter for native fauna, shade and amenity to area • Trees reduce soil stability and water uptake • Proposal will result in poorer water quality in lakes

5.5 Results of Public Exhibition of Draft DCP 2005: Chapter 14 - Tree Management (contd)

	<ul style="list-style-type: none">• Council will be held responsible for further degradation of Tuggerah Lakes and Lake Macquarie
D03260062	<ul style="list-style-type: none">• Prefer a balanced approach, which recognises the increased fire danger from gum trees when residences are adjacent to Council bush reserves:<ul style="list-style-type: none">• For exotics - 3m exemption across Shire to remain• For gum trees - 6m exemption for residents not near a bush reserve• For gum trees - 12m exemption next to a bush reserve• For gum trees - 15m exemption next to a bush reserve when radius of canopy reaches 3m

GOVERNANCE AND POLICY IMPLICATIONS

STATUTORY REQUIREMENTS

Environmental Planning and Assessment Act 1979

Section 74C of the Environmental Planning and Assessment Act 1979 provides for the preparation of Development Control Plans by Council, addressing aspects of development. The form, content and methodology for the preparation and adoption of a development control plan are specified in the Environmental planning and Assessment Regulation 2000.

The review of further staff comments on the draft provisions within the exhibited Chapter have resulted in refinements to enable the provisions of the document to be clearly interpreted and practically applied. In relation to these amendments, the Regulation provides that:

“Council:

- a. May approve the plan in the form in which it was publicly exhibited, or*
- b. May approve the plan with such alterations as the council thinks fit, or*
- c. May decide not to proceed with the plan.”*

It is recommended Council approve the Plan (revised Chapter 14 of DCP 2005), and in accordance with the Regulation, forward a copy of the adopted DCP to the Director-General of the NSW Department of Planning within 28 days.

CONCLUSION

DCP 2005: Chapter 14 – Tree Management has been prepared and publicly exhibited in accordance with legislative and regulatory requirements. Amendments have been made to the draft Chapter since public exhibition, to address better explain the agreed direction. The DCP incorporating the revised Chapter 14 - Tree Management is now recommended for formal adoption, with proposed implementation on 10 April 2013. The introduction period will enable documents associated with the Chapter (such as website content) to be amended. It will also enable a period of time in which to educate staff and the public of the details of the amendments within the Chapter.

ATTACHMENTS

- 1 DCP 2005: Chapter 14 - Tree Management D03265134

<p>DCP No. 14</p>	<h1 data-bbox="469 300 938 539">Wyong Tree Management Development Control Plan</h1> <h3 data-bbox="469 898 644 925">OBJECTIVES</h3> <p data-bbox="469 954 727 981">The aims of this plan are:</p> <ul data-bbox="469 1010 1394 1111" style="list-style-type: none">• To provide a framework for the protection of trees and native vegetation in Wyong Shire.• To set out Council's requirements with respect to the management of trees and the removal of vegetation. <p data-bbox="469 1630 1254 1787">This Development Control Plan (DCP) may be amended from time to time by Council. Proposed amendments are required to be advertised and exhibited in draft form and any submissions received must be considered by Council before the amended plan is adopted. People using this DCP should ensure that they have the current copy of the plan, including any amendments. If in doubt, please check with Council's Customer Service Centre.</p>
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