



Congratulations to Northlakes Care and Education Centre - 2011 Australian Child Care Week Awards finalists. Nominated for Best Child Care Week Activity for planting a bush tucker garden. Pictured: children use the centre's grevillea trees to make cordial.

Business Paper

ORDINARY MEETING

09 November 2011



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MEETING NOTICE

**The ORDINARY MEETING
of Wyong Shire Council
will be held in the Council Chamber,
Wyong Civic Centre, Hely Street, Wyong on
Wednesday 9 November 2011 at 5.00 pm,
for the transaction of the business listed below:**

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

RECEIPT OF APOLOGIES

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

Michael Whittaker
GENERAL MANAGER

1.1 Disclosures of Interest

TRIM REFERENCE: F2011/00027 - D02810635

AUTHOR: AUTHOR: Susanna Gardiner; Administration Assistant

MANAGER: Lesley Crawley; Manager Corporate Governance

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

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

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

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

RECOMMENDATION

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

1.2 Address by Invited Speakers

TRIM REFERENCE: F2011/00027 - D02810663

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Susanna Gardiner; Administration Assistant

SUMMARY

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

RECOMMENDATION

That Council receive the report on Invited Speakers.

1.3 Proposed Inspections and Briefings

TRIM REFERENCE: F2011/00027 - D02810727

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Susanna Gardiner; Administration Assistant

SUMMARY

Inspections conducted on 2 November 2011 are listed as follows:

Date of Inspection	Location	Requested By
2 November 2011	DA 685/2011 Construction of 20m monopole - Telecommunications Facility AT Wyong Road, Berkeley Vale	Director Environment and Planning Services
2 November 2011	DA 200/2011 - 4 Brogden Road, The Entrance North - Residential Flat Building (containing 3 townhouses) and Dwelling House	Director Environment and Planning Services
2 November 2011	Iconic Development Site No 16 - 216-222 Main Road and 21 Rowland Terrace, Toukley	Director Environment and Planning Services
2 November 2011	DA 790/2011 - Telecommunications Facility 295 Pacific Highway, Lake Munmorah	Director Environment and Planning Services

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

Date	Briefing	Description	Time	Presented by
9 November 2011	RZ/17/2009 Bundeena Rd Glenning Valley	Brief Councillors on proposed large residential rezoning with conservation offsets	12.00 noon – 12.30 pm	Manager Land Use Planning and Policy Development / Strategic Planner
9 November 2011	Concept planning for the Lake Haven Mega Centre site	Presentation by proponent of concept for the site	12.30 pm – 1.00 pm	Mr David Dinte
9 November 2011	Iconic Site- Lake Haven Mega Centre	Council staff presentation on the proposed concept for the site	1.00 pm – 1.30 pm	Manager Community Engagement
9 November 2011	Engagement policy and strategy – feedback from stakeholders	Provide feedback on consultation with staff on draft framework which includes policies and strategy, and discuss next steps.	1.30 pm – 2.00 pm	Manager Place Management

1.3**Proposed Inspections and Briefings (contd)**

9 November 2011	Surf Club renewal of leases	Provide overview on proposed Lease Agreements between Council and the Surf Life Saving Clubs	2.00 pm – 3.00 pm	Director Corporate Services Chad Griffith CEO SLSCC
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RECOMMENDATION

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

ATTACHMENT

1 Proposed Inspections and Briefings Attachment - 9 November 2011 D02827271

PROPOSED QUARTER	PROPOSED DATE	Briefing Title	Director
4th Quarter	09-Nov	Concept planning for the Lake Haven Mega Centre Site	Environment and Planning Services
4th Quarter	09-Nov	Engagement Policy and Strategy-feedback from stakeholders	Community & Recreation Services
3rd Quarter	09-Nov	Iconic Site- Lakehaven mega centre	Environment and Planning Services
4th Quarter	09-Nov	RZ/17/2009 Bundeena Road, Glenning Valley	Environment and Planning Services
4th Quarter	09-Nov	Surf club leases renewal	Corp Serv/Chad Griffith
4th quarter	23-Nov	Annual Report/State of the Shire Report	Corporate Services
4th Quarter	23-Nov	The Gosford Landing	CCRDC
4th Quarter	23-Nov	RTA (Highway upgrade Wyong township)	Infrastructure Management
4th quarter	23-Nov	Transport Infrastructure	Major Projects
4th Quarter	23-Nov	Q1 Annual Plan and Budget	Corporate Services
4th Quarter	23-Nov	Review of Grants	Community & Recreation Services
4th Quarter	Nov	Centennial Coal Mandalong South Exploration drilling program	Corporate Services Environment & Planning Services
	7th Dec		
4th quarter	14-Dec	GM's Performance Appraisal	GM's Unit/Corporate Services
4th Quarter	14-Dec	Learning Community Strategies (Pt 2)	Community & Recreation Services
4th Quarter	07-Dec	Community Facilities Strategy Part 1	Community & Recreation Services
4th Quarter	14-Dec	Briefing/Workshop as a foundation for the WSC SP (2012-2013)	corporate Services
4th Quarter	14-Dec	The Entrance Town Centre Masterplan	Environment and Planning Services
4th quarter	14-Dec	Councillor Service Priorities 2012/2016 and Strategic Plan (2hrs)	Corporate Services
4th Quarter	14-Dec	Volunteers	Community & Recreation Services
4th Quarter	14-Dec	NSW Taxi Council and the Central Coast Taxis	Infrastructure Management
4th quarter	14-Dec	Klumper Iconic development site - 2nd presentation	Environment and Planning Services
3rd quarter	Director to provide proposed date	Lower Ourimbah Creek Floodplain Risk Mgt Strategy	Infrastructure Management
4th Quarter	Director to provide proposed date	Plan of Management Central Coast Caravan Parks	Community & Recreation Services

PROPOSED QUARTER	PROPOSED DATE	Briefing Title	Director
2012		Tuggerah Town Centre Masterplan	Environment and Planning Services
2012	early new year	Precinct 7A Masterplan - Feedback following exhibition	Environment and Planning Services
2012	Feb	Wyong town centre planning proposal and car parking study	Infrastructure Management
2012	Feb	Provide update of plans and financial viability of The Art House and Cultural Development	Community & Recreation Services
2012	17-19 Feb	2 day Councillor Weekend Workshop	Corporate Services
2012	Feb	Review of Grants Prt 2	Community & Recreation Services
2012	March	Community Facilities Strategy Part 2	Community & Recreation Services
2012	March	Greenhouse Mitigation Plan/Green Energy Funds Projects - May 2011	Infrastructure Management
2012	13-Jun	13 June, 2012 -- 1 hour briefing on submissions to the draft to the WSC SP	Corporate Services
2012		RZ/7/2009 Chittaway Point Rezoning	Environment and Planning Services
2012	June	Biodiversity Management Plan	Environment and Planning Services
2012	July	Committee structure	Corporate Services
2012		Draft Shire-Wide Contributions Plan	Environment and Planning Services
2012		Retail Strategy Review	Environment and Planning Services
2012		Industrial Land and employment Lands study	Environment and Planning Services
2012		Wyong Employment Zone - results of DCP and S94 Contributions Plan/Biocertification update, DCP amendment update	Environment and Planning Services
2012		Affordable Housing Study	Environment and Planning Services
2012		DCP 113 - Flood Prone Land	Environment and Planning Services
2012	4th qtr	Sea Level Rise Notification & 149 Certificate	General Counsel/Environment and Planning Services
2012		Sustainability Update (Policy, Framework, Principles Review)	Environment and Planning Services
2012		Settlement Strategy	Environment and Planning Services
2012		Wyong Employment Zone – Results of exhibition of DCP & S94 Contributions Plan / Biocertification update	Environment and Planning Services
2012		Comprehensive LEP	Environment and Planning Services
2012		DCP 2012	Environment and Planning Services

1.4 Notice of Intention to Deal with Matters in Confidential Session

TRIM REFERENCE: F2011/00027 - D02826922

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Susanna Gardiner; Councillor Services Officer

SUMMARY

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

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

RECOMMENDATION

- 1 That Council consider the following matters in Confidential Session, pursuant to Sections 10A(2)(d) of the Local Government Act 1993:**
 - 8.1 – CPA/199890 – Enterprise Risk Management Strategy Project Facilitator**
- 2 That Council note its reason for considering Report No 8.1 as it may confer a commercial advantage (Section 10A(2)(d) should the discussions be held in a non-confidential environment.**
- 3 That Council request the General Manager to report on this matter in open session of Council.**

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

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

- (i) prejudice the commercial position of the person who supplied it, or*
- (ii) confer a commercial advantage on a competitor of the Council, or*
- (iii) reveal a trade secret*

1.5 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2011/00027 - D02810704

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Susanna Gardiner; Administration Assistant

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting and Confidential Meeting of Council held on 26 October 2011.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting and Confidential Meeting of Council held on 26 October 2011.

ATTACHMENTS

- | | | |
|---|------------------------------------------------------------------------------------------|-----------|
| 1 | Minutes of Council's Ordinary Meeting of 26 October 2011 | D02815554 |
| 2 | Meeting of Council's Confidential of 26 October 2011 (Restricted Distribution) D02815588 | |

WYONG SHIRE COUNCIL

**MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 26 OCTOBER 2011
COMMENCING AT 5:00:00 PM**

PRESENT

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

IN ATTENDANCE

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

Chief Financial Officer, Project Director and Project Manager CMP Team 1 and two administration staff.

ANNOUCEMENTS

Women in Local Government' Award

The Director Community Services and Recreation, announced that at the Central Coast Women in Business Awards for 2011 held on Saturday 24th September Kerry-Austen Gray and Julie Vaughan were both finalists in the 'Women in Local Government' Award category with Julie declared as the winner in this category.

NSW Water Safety Award

Wyong Council's "Stay Safe at the Beach" program was recognised as NSW "Event of the Year" at the New South Wales Water Safety Awards presented in Sydney on Thursday 29 September 2011.

Northlakes Care and Education Centre was a finalist in the Australian Childcare Week.

Norah Head Holiday Park won an award in the Hunter Central Coast Tourism Awards and are now included in the NSW Tourism Awards.

Councillor Wynn, Deputy Mayor, congratulated staff on their achievements and presented an award to the Mayor from Soldiers Beach Surf Life Saving Club.

Councillor Vincent who was also in attendance at the opening of the Soldiers Beach Surf Life Saving Club thanked the Mayor on behalf of the community.

Councillor Webster gave an update on – Chromefest at The Entrance and the level of positive feedback received from visitors and artists and passed on thanks to Council from the Manager of The Entrance Town Centre Management.

Councillor Matthews recently took part in a Shire Tour which she recommended as an excellent tour for new residents of the Shire.

Councillor Best commented on the Multicultural Expo, held at Council today, which represented the rich diversity of residents in the Shire.

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

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

APOLOGY

The Mayor noted a continuing apology from Councillor Mc Bride for her inability to attend the meeting.

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

That Council note the apology from Councillor McBride who is absent on annual leave.

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

AGAINST: NIL

At the commencement of the ordinary meeting report nos 2.1, 3.5 and 3.7, were dealt with first then the remaining reports in order also report nos 2.4 and 4.12 were considered after the close of the Confidential Session. However for the sake of clarity the reports are recorded in their correct agenda sequence.

1.1 Disclosures of Interest

2.4 DA/204/2007/A - Application to modify the design of a new access driveway and intersection required for an existing timber product manufacturing/storage operation

Councillor Wynn declared a non-pecuniary insignificant interest in the matter, for the reason that she lives in Mannering Park and therefore frequently drives on that part of the road (Ruttleys Road), and participated in consideration of this matter.

Councillor Wynn stated:

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

2.4 DA/204/2007/A - Application to modify the design of a new access driveway and intersection required for an existing timber product manufacturing/storage operation**1st Resolution**

Councillor Eaton declared a pecuniary interest in the matter, for the reason that his family company owns this site, left the chamber at 7.32 pm, took no part in discussion, did not vote and returned to the chamber at 7.56 pm.

2nd Resolution

Councillor Eaton declared a pecuniary interest in the matter, for the reason that his family company owns this site, left the chamber at 10.51 pm, took no part in discussion, did not vote and did not return to the chamber.

3.4 Exhibition of Porters Creek Floodplain Risk Management Plan

Councillor McNamara declared a pecuniary interest in the matter, for the reason that he lives in the affected area of the Porters Creek Wetland and this Plan may affect his house value, left the chamber at 8.45 pm, took no part in discussion, did not vote and returned to the chamber at 9.00 pm.

4.12 Improvement of Road Safety - Ruttleys Road - Mannering Park

Councillor Eaton declared a pecuniary interest in the matter for the reason that his family company owns this site, left the chamber at 10.51 pm, took no part in discussion, did not vote and did not return to the chamber.

5.2 Notice of Motion - Central Coast Bears - Foundation Membership

Councillor Graham declared a non-pecuniary insignificant interest in the matter, for the reason that he is a Board member of the Central Coast Mariners F.C. Pty Ltd which is mentioned in the Councillor's note attached to this Notice of Motion, and participated in consideration of this matter.

Councillor Graham 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 Review of Process - 464 Ruttleys Road, Mannering Park

Councillor Wynn declared a non-pecuniary insignificant interest in the matter, for the reason that she lives in Mannering Park and therefore frequently drives on that part of the road (Ruttleys Road), and participated in consideration of this matter.

Councillor Wynn 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 Review of Process - 464 Ruttleys Road, Mannering Park

Councillor Eaton declared a pecuniary interest in the matter for the reason that his family company owns this site, left the chamber at 10.51 pm, took no part in discussion, did not vote and did not return to the chamber.

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

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

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

AGAINST: NIL

1.2 Address by Invited Speakers

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

1 That Council receive the amended report on Invited Speakers.

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

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

AGAINST: NIL

1.3 Proposed Inspections and Briefings

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

That Council receive the report on Proposed Inspections and Briefings.

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

AGAINST: NIL

1.4 Confirmation of Minutes of Previous Meeting

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

That Council confirm the minutes of the previous Ordinary Meeting of Council and Confidential session held on 12 October 2011.

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

AGAINST: NIL

1.5 Notice of Intention to Deal with Matters in Confidential Session

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

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

Report no Item 8.1 Review of Process - 464 Ruttleys Road, Mannering Park

2 That Council note its reason for considering Report No 8.1 in confidential session is because it contains:

*** information that would, if disclosed, prejudice the maintenance of law (Section 10A(2)(e))**

*** advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege (Section 10A(2)(g)).**

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

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

AGAINST: NIL

1.6 Mayoral Minute - KORES

Councillor Best left the chamber at 5.34 pm and returned to the chamber at 5.36 pm during consideration of this item.

Councillor Symington left the chamber at 5.35 pm and returned to the chamber at 5.36 pm during consideration of this item.

RESOLVED unanimously on the motion of Councillor GRAHAM:

I formally move:

- 1 That Council request the General Manager write to the NSW Premier seeking the introduction of 'special legislation' to protect the Wyong Shire water catchment and valleys from mining.**
- 2 That Council request the General Manager to include, in Council's response to the Director-General of the DoP & I, a request that the Director-General's Requirements not be issued and the application by the Wyong Areas Coal Joint Venture for State Significant Development be refused.**
- 3 That taking into account the previous commitment by Gosford City Council in opposing the earlier application by KORES, Council request the General Manager write to Gosford City Council, the Central Coast Water Corporation and Lake Macquarie City Council requesting their support for the matters outlined in 1& 2 above.**
- 4 That Council request the General Manager write to the Federal Member for Dobell, Minister for the Central Coast and State Members for Wyong, The Entrance, Gosford and Lake Macquarie calling on their support in opposing this new application for coal mining in our valleys and water catchment.**
- 5 That Council direct the General Manager to also write to the Federal Member for Dobell on the status of his Private Members Bill.**
- 6 That Council direct the General Manager write to the Minister for Primary Industries requesting that the current exploration licence for Kores P/L not be renewed.**

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

AGAINST: NIL

**2.1 DA/ 574/2011 - Proposed Disability Access Ramp and Deck at
Lakes Beach Surf Club, Budgewoi**

Mr Dave Galea, representing the Budgewoi Surf Club Project Committee, addressed the meeting at 5.55 pm, answered questions and retired at 6.02 pm.

It was MOVED by Councillor Graham:

That the MOTION be put.

The MOTION was put to the vote and declared LOST.

FOR: COUNCILLORS BEST, EATON, GRAHAM AND MCNAMARA,

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

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

- 1 That Council grant consent subject to the conditions detailed in the schedule attached to the report having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.***
- 2 That Council request the General Manager to forward a copy of the development consent to the NSW State Property Authority for information.***
- 3 That Council request the General Manager to congratulate and thank the Northern Lakes Disability Tourism Committee and staff for progressing the Lakes Beach Surf Club disability access project and note that if this project proceeds it will be a “world first”.***
- 4 That Council reaffirm its continued support for the Northern Lakes Disability Tourism Committee and the committee’s disability tourism projects.***

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

AGAINST: NIL

2.2 DA/1486/2010 Proposed Restaurant and Drive-Through Facility at Ourimbah

Councillor Matthews left the chamber at 6.54 pm and returned to the chamber at 6.55 pm during consideration of this item.

Councillor Best left the chamber at 7.20 pm and returned to the chamber at 7.22 pm during consideration of this item.

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

- 1 That Council grant consent subject to the conditions, as amended, in the schedule attached to the report having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.**
- 2 That Council vary Development Control Plan 2005 Chapter 61 and 65 to permit the development.**
- 3 That Council delete from the list of proposed conditions attached to the report, the second bullet point under Condition 11 – Landscaping Design Requirements which states:**

“The landscape architect is to nominate trees and shrubs that will provide a dense screen to the front of the property. The planting is to achieve tree heights greater than 10 metres and shrubs that will achieve a height greater than 2 metres upon maturity.”

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

AGAINST: NIL

2.3 DA/1112/2009 - Proposed Change of Use from a Carpet Warehouse and Showroom to a Retail Premises (Liquor Shop) under Existing Use Provisions at Kanwal

Councillor McNamara left the chamber at 7.32 pm and returned to the chamber at 7.33 pm during consideration of this item.

The Director Environment and Planning Services advised that the owner/applicant has now withdrawn his application.

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

The Council note that the owner/applicant has now withdrawn his application.

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

AGAINST: NIL

2.4 DA/204/2007/A - Application to Modify the Design of a new Access Driveway and Intersection required for an Existing Timber Product Manufacturing/Storage Operation

Councillor Eaton declared a pecuniary interest in the matter, for the reason that his family company owns this site, left the chamber at 7.32 pm, took no part in discussion, did not vote and returned to the chamber at 7.56 pm.

1st Resolution

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

That Council discuss Item 2.4 and 4.12 in conjunction with the consideration of Item 8.1 in Confidential session.

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

AGAINST: NIL

2nd Resolution

Councillor Eaton declared a pecuniary interest in the matter, for the reason that his family company owns this site, left the chamber at 10.51 pm, took no part in discussion, did not vote and did not return to the chamber.

Discussion on this item occurred in Confidential Session and this item was resolved in Open Session when Council Resumed in Open Session at 11.27pm

It was MOVED by Councillor SYMINGTON and SECONDED by Councillor BEST:

- 1 *That Council note receipt of the Applicant's request for deferral of determination of the Section 96 Application to enable submission of a modified application.*
- 2 *That Council defer consideration of Section 96(1A) 204/2007/A pending:*
 - a) *An opportunity being afforded to the applicant to lodge an amended application under S96 of the Environmental Planning and Assessment Act.*
 - b) *The amended application being received by Council within 21 days, i.e. by the 14 November 2011.*
- 3 *That Council consider the Section 96 Application no later than the Ordinary Meeting of 14 December 2011.*
- 4 *That Council request the applicant to institute a Traffic Management Plan that contains "left-in" "left-out" until such time as the Section 96 application has been resolved.*

An AMENDMENT was MOVED by Councillor WYNN and SECONDED by Councillor VINCENT:

1 That Council, having regard to the matters for consideration detailed under Section 96(1A) and Section 79C of Environmental Planning and Assessment Act, 1979, modify Development Consent No 204/2007 in the following manner:

A Delete Condition 9 and insert in that place a new condition 9 to read as follows:

"9 The driveway/intersection onto Ruttleys Road shall be relocated approximately 135 metres south of the existing unsealed site access.

Detailed construction design plans and specifications shall be prepared in accordance with the following requirements and submitted for approval by Council prior to issue of a Construction Certificate.

- A Detail Design Road Safety Audit (RSA) prepared by a qualified Level 3 Road Safety Auditor shall be undertaken on the intersection design. The RSA is to be submitted to Council and all issues identified in the RSA shall be addressed to the satisfaction of Council as the Roads Authority prior to the release of the Construction Certificate.
- The design shall be prepared in accordance with Austroads 2009 "Guide to Road Design – Part 4A: Unsignalised and Signalised Intersections "BAR" treatment on a major road and Wyong Shire Council's Development Control Plan 2005, Chapter 67 Engineering Requirements for Development.
- The design shall be supported by a Geotechnical Investigation and pavement design report prepared by a suitably qualified practising Geotechnical Engineer.
- The design of additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development.
- The design of the intersection should take into account the location of the existing large power poles and guard fencing. Note: The widened pavement required in accordance with the BAR (Austroads Figure 7.5 treatment) should be formed, sealed and the outside edge line a sufficient offset from any guard fencing.

B Delete Condition 10 and insert in that place a new condition 10 to be read as follows:

"10 The preparation and submission to the Council as the Roads Authority of a 'pre-opening stage' Road Safety Audit for the works within the Ruttley's Road prepared by a Level 3 Road Safety Auditor recognised on the NSW Register of Road Safety Auditors. Any deficiencies identified within the audit must be resolved in consultation with Council prior to the acceptance of the works and release of a Construction Certificate."

C Delete Condition 11 and insert in that place a new Condition 11 to read as follows:

"11 Detailed construction design plans and specifications shall be prepared for the construction of the internal roadway providing vehicular access from the new Ruttleys Road access intersection connecting to the carparking and loading area within the site. The construction shall include the sealing and drainage of the existing carpark area. The design shall be in accordance with the following requirements and shall be submitted and approved by Council/Accredited Certifier prior to issue of any Construction Certificate:

- The driveway accessway shall be a minimum 7.5 metres wide sealed pavement in accordance with the requirements of the current Australian Standard AS2890 and Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development.
- The driveway accessway is to be of sufficient width to ensure heavy vehicles /semi trailers can pass at any point along the driveway access with adequate clearances.
- The design plans shall include a pavement design prepared by a suitably qualified Geotechnical Engineer.
- The internal driveway construction works shall be completed, surveyed and identified by "Works as Executed" information in accordance with Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development to Council's satisfaction prior to the issue of an Occupation Certificate.

D Delete Condition 36 and insert in that place a new Condition 36 to read as follows:

"36 The completion of the construction of the new access/intersection onto Ruttleys Road approximately 135 metres south of the existing unsealed access in accordance with the plans approved under Condition No 9 and 10.

In this regard, all access construction works and associated "BAR" intersection works within Ruttleys Road shall be completed, surveyed and identified by "Works as Executed" information in accordance with Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development to Council's satisfaction prior to the issue of an Occupation Certificate. Note: All recommendations of the Road Safety Audit approved under Condition 10 shall be implemented to the satisfaction of Council prior to the issue of the Occupation Certificate.

- E Delete Condition No 40 and insert in that place a new condition 40 to read as follows:

“40 Upon completion of the construction of the new access intersection the existing unsealed access is to be closed. The works shall include the restoration of the damaged carriageway pavement within Ruttleys Road, reinstatement of the line marking, removal of excess road base material and the stabilisation of the area with suitable mulch and the planting of native vegetation prior to the issue of an Occupation Certificate”

- F Delete Condition 41 and inserting in that place a new condition 41 to read as follows:

“41 The construction of the carpark and internal driveways detailed on the design plans approved in accordance with the requirements of Condition 11 within six (6) months from the date of issue of the modified consent. Certification of the construction by a suitably qualified consultant is to be provided to Council prior to the issue of an Occupation Certificate.”

The AMENDMENT was put to the vote and declared CARRIED.

The AMENDMENT became the MOTION.

FOR: COUNCILLORS MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: COUNCILLORS BEST, GRAHAM AND MCNAMARA

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

- 1 ***That Council, having regard to the matters for consideration detailed under Section 96(1A) and Section 79C of Environmental Planning and Assessment Act, 1979, modify Development Consent No 204/2007 in the following manner:***

- A ***Delete Condition 9 and insert in that place a new condition 9 to read as follows:***

“9 The driveway/intersection onto Ruttleys Road shall be relocated approximately 135 metres south of the existing unsealed site access.

Detailed construction design plans and specifications shall be prepared in accordance with the following requirements and submitted for approval by Council prior to issue of a Construction Certificate.

- A Detail Design Road Safety Audit (RSA) prepared by a qualified Level 3 Road Safety Auditor shall be undertaken on the intersection design. The RSA is to be submitted to Council and all issues identified in the RSA shall be addressed to the satisfaction of Council as the Roads Authority prior to the release of the Construction Certificate.***

- **The design shall be prepared in accordance with Austroads 2009 “Guide to Road Design – Part 4A: Unsignalised and Signalised Intersections “BAR” treatment on a major road and Wyong Shire Council’s Development Control Plan 2005, Chapter 67 Engineering Requirements for Development.**
 - **The design shall be supported by a Geotechnical Investigation and pavement design report prepared by a suitably qualified practising Geotechnical Engineer.**
 - **The design of additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development.**
 - **The design of the intersection should take into account the location of the existing large power poles and guard fencing. Note: The widened pavement required in accordance with the BAR (Austroads Figure 7.5 treatment) should be formed, sealed and the outside edge line a sufficient offset from any guard fencing.**
- B Delete Condition 10 and insert in that place a new condition 10 to be read as follows:**
- “10 The preparation and submission to the Council as the Roads Authority of a ‘pre-opening stage’ Road Safety Audit for the works within the Ruttley’s Road prepared by a Level 3 Road Safety Auditor recognised on the NSW Register of Road Safety Auditors. Any deficiencies identified within the audit must be resolved in consultation with Council prior to the acceptance of the works and release of a Construction Certificate.”**
- C Delete Condition 11 and insert in that place a new Condition 11 to read as follows:**
- “11 Detailed construction design plans and specifications shall be prepared for the construction of the internal roadway providing vehicular access from the new Ruttleys Road access intersection connecting to the carparking and loading area within the site. The construction shall include the sealing and drainage of the existing carpark area. The design shall be in accordance with the following requirements and shall be submitted and approved by Council/Accredited Certifier prior to issue of any Construction Certificate:**
- **The driveway accessway shall be a minimum 7.5 metres wide sealed pavement in accordance with the requirements of the current Australian Standard AS2890 and Council’s Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development.**
 - **The driveway accessway is to be of sufficient width to ensure heavy vehicles /semi trailers can pass at any point along the driveway access with adequate clearances.**
 - **The design plans shall include a pavement design prepared by a suitably qualified Geotechnical Engineer.**

- **The internal driveway construction works shall be completed, surveyed and identified by "Works as Executed" information in accordance with Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development to Council's satisfaction prior to the issue of an Occupation Certificate.**

D Delete Condition 36 and insert in that place a new Condition 36 to read as follows:

"36 The completion of the construction of the new access/intersection onto Ruttleys Road approximately 135 metres south of the existing unsealed access in accordance with the plans approved under Condition No 9 and 10.

In this regard, all access construction works and associated "BAR" intersection works within Ruttleys Road shall be completed, surveyed and identified by "Works as Executed" information in accordance with Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development to Council's satisfaction prior to the issue of an Occupation Certificate. Note: All recommendations of the Road Safety Audit approved under Condition 10 shall be implemented to the satisfaction of Council prior to the issue of the Occupation Certificate.

E Delete Condition No 40 and insert in that place a new condition 40 to read as follows:

"40 Upon completion of the construction of the new access intersection the existing unsealed access is to be closed. The works shall include the restoration of the damaged carriageway pavement within Ruttleys Road, reinstatement of the line marking, removal of excess road base material and the stabilisation of the area with suitable mulch and the planting of native vegetation prior to the issue of an Occupation Certificate"

F Delete Condition 41 and inserting in that place a new condition 41 to read as follows:

"41 The construction of the carpark and internal driveways detailed on the design plans approved in accordance with the requirements of Condition 11 within six (6) months from the date of issue of the modified consent. Certification of the construction by a suitably qualified consultant is to be provided to Council prior to the issue of an Occupation Certificate."

FOR: COUNCILLORS GRAHAM, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: COUNCILLORS BEST AND MCNAMARA

3.1 Establishment of a Status of Women Advisory Committee

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

- 1 That Council establish a Status of Women Advisory Committee under Section 355 (c) of the Local Government Act, 1993.**
- 2 That Council adopt the Status of Women Advisory Committee Terms of Reference attached to this report.**
- 3 That Council appoint Councillors Matthews, Vincent and Webster as the elected Councillor delegates on the Advisory Committee and Councillors McBride and Wynn as the alternate delegates.**
- 4 That Council note that the General Manager will determine community membership of the Committee in accordance with the Terms of Reference.**
- 5 That Council consider including a budget of \$10,000 per annum, for this Committee, in the September Quarterly Review.**

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

AGAINST: NIL

3.2 Establishment of an Environment Committee

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

- 1 That Council defer adopting a Charter for the Strategic Environment Committee pending revision of the Charter such that the Strategic Environment Committee forms an "Advisory" Committee to Council and incorporates external experts within the draft membership of the Committee.**
- 2 That upon receipt of a report incorporating the amended Charter, Council determine the membership of the Strategic Environment Committee.**
- 3 That Council note the Tuggerah Lakes Estuary Coastal and Floodplain Management Committee will continue to operate as a separate advisory committee.**

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

AGAINST: NIL

3.3 Opportunity to increasing the Level of Service to Parks, Reserves and Roadside Vegetation Maintenance

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

- 1 That Council agree to maintain the level of service to roadside vegetation maintenance to entries to the Shire, townships, high usage roads and high volume intersections that was increased at July 1, 2011, as outlined in this report.**
- 2 That Council agree to maintain the current level of service for parks and reserves for the 2011/12 financial year.**
- 3 That Council request the General Manager to prepare a budget that allows for a higher level of service for parks and reserves to be considered as part of the 2012/13 business planning process. This should also include a report on operational efficiencies that may enhance our levels of service. This report and budget is to be presented to the Councillors Budget Workshop in February 2012.**
- 4 That Council authorise the Mayor and the General Manager to make representations to the Minister for Roads to fully fund the existing standard of service on State Roads in Wyong Shire.**

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

AGAINST: NIL

3.4 Exhibition of Porters Creek Floodplain Risk Management Plan

Councillor McNamara declared a pecuniary interest in the matter, for the reason that he lives in the affected area of the Porters Creek Wetland and this Plan may affect his house value, left the chamber at 8.45 pm, took no part in discussion, did not vote and returned to the chamber at 9.00 pm.

Councillor Symington left the chamber at 8.48 pm and returned to the chamber at 8.49 pm during consideration of this item.

Councillor Webster left the chamber at 8.49 pm and returned to the chamber at 8.50pm during consideration of this item.

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

- 1 That Council adopt the Porters Creek Floodplain Risk Management Study.**
- 2 That Council endorse the Porters Creek Floodplain Risk Management Plan for public exhibition.**
- 3 That Council endorse the public exhibition period to extend from 15 November 2011 to 15 February 2011.**

FOR: COUNCILLORS GRAHAM, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: COUNCILLORS BEST, EATON

PROCEDURAL MOTION

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

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

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

AGAINST: NIL

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

That with the exception of report numbers 2.4, 3.6, 3.9, 3.11, 4.3, 4.5, 4.6, 4.9, 4.10, 4.12, 5.1, 5.2, 5.3, 5.4, 5.5, 5.5, 6.1 and 8.1 Council adopt the recommendations contained in the remaining reports.

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

AGAINST: NIL

3.5 Presentation on 2010-11 Annual Financial Reports

Mr Dennis Banicevic, External Auditor – PricewaterhouseCoopers, addressed the meeting at 6.25 pm, answered questions and retired at 6.29 pm.

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

- 1 That Council present the Audited Financial Reports for 2010-11 in accordance with the Local Government Act 1993.**
- 2 That Council invite the External Auditor, Mr Dennis Banicevic (representing Price Waterhouse Coopers) to formally present the Auditor's report on Council's Annual Financial Reports for 2010-11.**

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

AGAINST: NIL

3.6 Contract Variations and Finalisation - September 2011

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

- 1 That Council receive the Contract Variations and Finalisation September 2011 report (Attachment 1 and 2).**
- 2 That Council approve additional expenditure above resolved estimates for the following contracts:**

Contract Title	Contract No	Adjusted Contract Value (excl GST)	Additional Budget Approval
<i>Provision of Property Manager Services – Mardi to Mangrove Link Project</i>	<i>CPA/146302</i>	<i>\$775,245.00</i>	<i>\$700.00</i>
<i>Construction of Hamlyn Terrace Community Centre & Sporting Facility</i>	<i>CPA/172612</i>	<i>\$7,640,811.82</i>	<i>\$330,000.00</i>
<i>Soldiers Beach Surf Lifesaving Club (SLSC)</i>	<i>CPA/184454</i>	<i>\$3,094,344.00</i>	<i>\$310,000.00</i>
<i>Shelley Beach Surf Lifesaving Club (SLSC)</i>	<i>CPA/184446</i>	<i>\$3,307,804.00</i>	<i>\$480,000.00</i>

- 3 That Council note the additional expenditures requested are within approved program budgets.**

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

AGAINST: NIL

3.7 Governance Committee Chairman's Report

Mr David Holmes, Chairman Council's Governance Committee, addressed the meeting at 6.34 pm, answered questions and retired at 6.40 pm.

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

That Council receive the Governance Committee Chairman's Report.

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

AGAINST: NIL

3.8 Delegates Report - 2011 ALGWA Conference - SWIFT - Strong Women Influencing Trends

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

That Council receive the Delegates Report - 2011 ALGWA Conference - SWIFT - Strong Women Influencing Trends.

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

AGAINST: NIL

3.9 Australia Day Awards 2012

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

- 1 That Council form an Australia Day Advisory Committee, comprising of staff and Councillors, to determine the winners of the Australia Day Citizen Awards.**
- 2 That Council appoint the Mayor, Deputy Mayor and Councillor Webster as delegates on this Committee.**
- 3 That Council coordinate a meeting with representatives from Wyong Regional Chamber of Commerce, The Entrance Town Centre Management and Greater Toukley Vision to coordinate marketing and promotion activities for Australia Day events to be held in Wyong, The Entrance and Canton Beach with an aim to increase participation.**
- 4 That Council authorise the General Manager to adopt a charter for the Advisory Committee.**

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

AGAINST: NIL

3.10 Draft Minutes - Extraordinary Governance Committee Meeting held on 5 October 2011

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

- 1 That Council receive the draft minutes of the Extraordinary Committee Meeting of the Wyong Shire Governance held on 5 October 2011.**
- 2 That Council note the Committee's advice, whereby upon reviewing the Council's accounts,**
 - a a number of presentation items, including Note 17, were yet to be agreed with the External Auditor, and**
 - b that the accounts show a difficult financial position.**

Assuming these outstanding matters are resolved, the Governance Committee's recommendations to Council areas follows:

- 3 That Council adopt the draft Wyong Shire Council financial statements for 2010/11.**
- 4 That Council refer the draft Wyong Shire Council financial statements for 2010/11 to external audit.**
- 5 That Council authorise the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer to execute all documents related to the draft 2010/11 financial reports as required by legislation.**
- 6 That Council fix 26 October 2011 as the date for the presentation of the audited 2010/2011 financial statements and external audit report in accordance with section 419(1) of the Local Government Act 1993.**
- 7 That Council note that whilst there has been an improvement in the financial situation there are still significant financial risks in relation to assets and revenue.**
- 8 That Council congratulate staff for their significant contribution towards the improved financial position.**
- 9 That Council request management to continue to advise and recommend strategies to improve the financial position of Wyong Council.**
- 10 That Council recognise that further work is required to achieve the long term financial goal of a break even operating result 2014-2015.**
- 11 That Council endorse the Committee's recommendation that Council recognise the excellent contribution and professionalism of the outgoing Chairman, Mr David Holmes, over the past four years and that Council give consideration to formal recognition for his efforts.**
- 12 That Council appoint Mr Bruce Turner as the Chair of the Governance Committee.**
- 13 That Council note the resignation of Councillor Symington from the Committee and thank him for the support he has given the Committee over the past three years.**

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

AGAINST: NIL

3.11 Draft Minutes - Gosford-Wyong Councils' Water Authority Board Meeting held on 12 October 2011

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

- 1 That Council receive the draft minutes of the Gosford-Wyong Councils' Water Authority Board Meeting conducted on 12 October 2011.**
- 2 That Council adopt the recommendations included in the draft minutes of the Gosford-Wyong Councils' Water Authority Board Meeting conducted on 12 October 2011.**
- 3 That Council, in regards to Water Restrictions, endorse the following:**
 - a The easing of the water restrictions from Level 3 to Level 2 as per the refined Level 2 water restriction rules detailed in Table 2,**
 - b The new water restrictions to take effect from 14 November 2011, acknowledging the time taken to print brochures, designing and booking advertising placements etc,**
 - c The community be congratulated for their ongoing efforts to save water on the Central Coast,**
 - d That the communication program ensure that the community is aware that, although water restrictions have been relaxed, community support is still required in conserving our precious water supply.**
 - e That the Waterwise education program, as part of the summer campaign, runs in parallel to the easing of restrictions particularly emphasising the efficient use of water in the home and business.**
 - f The endorsement of the new restriction triggers as outlined in Table 1 of the report.**
- 4 That Council, in regards to the Transfer of joint Water Authority Functions, endorse the following:**
 - a That the functions, agreements and arrangements of the Joint Water Authority be transferred from the committee structure to the Councils' General Managers until the Directors of the Central Coast Water Corporation are proclaimed by the Governor or 31 December 2011, whichever occurs first.**
 - b That the General Managers report, to their respective Councils, the impact of each of the functions, agreements and arrangements to be transferred across to the Central Coast Water Corporation.**
- 5 That Council, in regards to WaterWatch, endorse the following:**
 - a That the Community Environment Network (CEN) be invited to submit a proposal regarding the provision of the Waterwatch program on the Central Coast.**

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

AGAINST: NIL

4.1 Information Reports

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

That Council receive the information reports and adopt the recommendations.

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

AGAINST: NIL

4.2 Works in Progress - Water Supply and Sewerage

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

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

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

AGAINST: NIL

4.3 General Works in Progress

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

That Council receive the report on General Works in Progress.

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

AGAINST: NIL

4.4 Response from Minister for Sport and Recreation on Administration of Water Safety

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

That Council receive the response from the Minister for Sport and Recreation on Administration of Water Safety.

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

AGAINST: NIL

4.5 Trial Extension of Lifeguard Service

Councillor Vincent left the chamber at 9.49 pm and returned to the chamber at 9.50 pm during consideration of this item.

Councillor Best left the chamber at 9.53 pm and returned to the chamber at 9.54 pm during consideration of this item.

It was MOVED by Councillor MATTHEWS and SECONDED by Councillor BEST:

- 1 *That Council receive the report on the Trial Extension of Lifeguard Service to Soldiers Beach and Shelly Beach.*
- 2 *That Council request the General Manager to operate a seven day extended lifeguard service during May and September 2012 at Soldiers Beach and Shelly Beach.*
- 3 *That Council request the General Manager to provide a report on flexible service options with regard to the July school holiday period as a response to variable weather patterns.*

An AMENDMENT was MOVED by Councillor EATON and SECONDED by Councillor GRAHAM:

- 1 *That Council request the General Manager to report on the cost of extending Lifeguard services over the period of May and September for Soldiers Beach and Shelly Beach.*
- 2 *That Council consider a report on this subject, early in 2012, which includes the cost thereof and the opportunity costs thereof including community consultation.*

The AMENDMENT was put to the vote and declared LOST .

FOR: COUNCILLORS EATON, GRAHAM AND MCNAMARA

AGAINST: COUNCILLORS BEST, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN

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

- 1 ***That Council receive the report on the Trial Extension of Lifeguard Service to Soldiers Beach and Shelly Beach.***
- 2 ***That Council request the General Manager to operate a seven day extended lifeguard service during May and September 2012 at Soldiers Beach and Shelly Beach.***
- 3 ***That Council request the General Manager to provide a report on flexible service options with regard to the July school holiday period as a response to variable weather patterns.***

FOR: COUNCILLORS BEST, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: COUNCILLORS EATON, GRAHAM AND MCNAMARA

4.6 Activities of the Building Certification and Health Unit and Development Assessment Unit

Councillor Matthews left the chamber at 10.00 pm and returned to the chamber at 10.02 pm during consideration of this item.

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

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

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

AGAINST: NIL

4.7 Operational Activities and Trends Associated with the Animal Care Facility at Charmhaven

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

That Council receive the report on Operational Activities and Trends Associated with the Animal Care Facility at Charmhaven.

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

AGAINST: NIL

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

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

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

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

AGAINST: NIL

4.9 Mardi to Mangrove Link Project Status

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

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

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

AGAINST: NIL

4.10 Investment Report for September 2011

Councillor McNamara left the chamber at 10.07 pm and returned to the chamber at 10.08 pm and as a result took no part in voting.

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

That Council receive the report on Investment Report for September 2011.

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

AGAINST: NIL

4.11 Outstanding Questions without Notice and Notice of Motions

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

That Council receive the report on Outstanding Questions without Notice and Notice of Motions.

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

AGAINST: NIL

4.12 Improvement of Road Safety - Ruttleys Road - Mannering Park

Councillor Eaton declared a pecuniary interest in the matter for the reason that his family company owns this site, left the chamber at 10.51 pm, took no part in discussion, did not vote and did not return to the chamber.

Discussion on this item occurred in Confidential Session and this item was resolved in Open Session when Council Resumed in Open Session at 11.27pm

Councillor Matthews left the chamber at 11.32 pm and returned to the chamber at 11.33 pm during consideration of this item.

Councillor Webster left the chamber at 11.47 pm and returned to the chamber at 11.48 pm during consideration of this item.

Councillor Matthews left the chamber at 11.47 pm and returned to the chamber at 11.48 pm during consideration of this item.

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

That Council receive and note the report on the Traffic Risk Assessment.

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

AGAINST: NIL

5.1 Notice of Motion - Waste Levy Charges

Cr McNamara returned at 10.08 pm during consideration of this item.

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

- 1 That Council note with concern the continued State Government cost shifting and rate pegging and its effects on the social and economic status of the Shire.***
- 2 That Council request the General Manager to formally request the NSW Minister for the Environment to amend the Protection of the Environment Operations (Waste) Regulation 2005, or whatever other mechanism is available, to ensure the following:***
 - a Exemption from the payment of the waste and sustainability levy for the receipt and/or disposal of mixed waste, ENM (Excavated Natural Material) and VENM (Virgin Excavated Natural Material), from Wyong Shire Council's road construction works at its Buttonderry Waste Management Facility.***
 - b Return of 50% of the total annual Waste Levy paid by Wyong Shire Council for use on local road maintenance and environmental initiatives.***
 - c Future Waste and Sustainability Levy increases being limited to the official CPI figure.***

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

AGAINST: NIL

5.2 Notice of Motion - Central Coast Bears - Foundation Membership

It was MOVED by Councillor MCNAMARA and SECONDED by Councillor WEBSTER :

That Council become a Foundation Member of the Central Coast Bears Rugby League Club.

An AMENDMENT was MOVED by Councillor GRAHAM and SECONDED by Councillor WYNN:

That Council endorse involvement with any National Rugby League team located on the Central Coast, after the team has been admitted to the NRL, in the same manner that Council has supported other national sporting codes on the Central Coast.

The AMENDMENT was put to the vote and declared LOST.

FOR: COUNCILLORS GRAHAM, WYNN AND VINCENT

AGAINST: COUNCILLORS BEST, EATON, MATTHEWS, MCNAMARA, SYMINGTON, AND WEBSTER

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

That Council become a Foundation Member of the Central Coast Bears Rugby League Club.

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

AGAINST: COUNCILLOR GRAHAM

5.3 Notice of Motion - Submission to the Planning System Review Committee

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

- 1 That Council request the General Manager to make a submission to the planning system review committee highlighting problems with the current planning system including:***
 - a delays particularly with rezonings, but also with other government agencies,***
 - b uncertain outcomes even after land has been rezoned for development,***
 - c infrastructure provision including alternative funding mechanisms such as muni bonds,***
 - d more local flexibility, one size does not fit all,***
 - e more local authority, empowering council to make decisions on minor rezonings and rezonings in line with adopted strategic plans***
 - f cheaper, simpler system.***

- 2 Council request the General Manager to schedule a briefing, in late January or early February, on the issues paper with a view to developing a Council submission to the issues paper.**

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

AGAINST: NIL

5.4 Notice of Motion - Reducing the Graffiti Canvas

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

- 1 That Council note with concern the escalating costs to Council and its ratepayers as a result of the local graffiti epidemic.**
- 2 That Council request the General Manager to report on any emerging urban planning initiatives that may reduce graffiti on boundary fences in new subdivision areas which front public domain areas such as parks and reserves.**

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

AGAINST: NIL

5.5 Notice of Motion - Warnervale Key Road Project

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

- 1 That Council note the completion of the 1.3 M upgrade and traffic light installation at the intersection of Warnervale and Minnesota Roads and the subsequent \$4.6 M reconstruction of the southern section of Minnesota Road.**
- 2 That Council request the General Manager provide a report detailing the traffic management initiatives that will be implemented during the construction phase to assist local residents and ratepayers.**
- 3 That Council note that as Minnesota Road is being completely reconstructed, closures and partial closures may be necessary, which will have a significant impact on movements in neighbouring Louisiana Road and particularly at the dangerous Pacific Highway intersection.**
- 4 That Council request the General Manager to seek urgent advice from the State regarding the measures proposed to minimise risk and increase safety at the Pacific Highway intersection.**
- 5 That Council recognise the efforts of the WSC Infrastructure Unit in delivering the much needed \$250,000 upgrade of Louisiana Road.**
- 6 That Council thank the local community for its patience and understanding throughout the period of construction of these important safety upgrade works.**

- 7 That Council request the General Manager to report on options and opportunities, including possible partnership with the State and Federal Governments, to upgrade Warnervale Road as a priority.**

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

AGAINST: NIL

6.1 Rescission Motion - Joint Regional Planning Panel Representation

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

- 1 That Council rescind the following resolution carried at the Ordinary Meeting of Council held on 12 October 2011:**

“1 That Council, noting its commitment to engaging the community in the development process and having regard to the State Government selection criteria applicable to all Panel members, proceed to invite expressions of interest from appropriately experienced and qualified members of the Community to be appointed as Council representatives and alternative representatives on the Hunter/Central Coast JRPP. That Council note that the community representatives will replace the current Councillor and staff and Councillor Panel members.

2 That Council advise the secretariat of the JRPP of those changes to its representation.

3 That Council remunerate its delegates to JRPP meetings at the rate paid in most other Councils of \$650 per meeting.”

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

AGAINST: COUNCILLORS VINCENT AND WYNN

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

- 1 That Council recognise that its representatives to the Joint Regional Planning Panel (JRPP) should be Councillors, as they are the elected representatives of the community, and endorse a change to its current representation to reflect this principle such that Councillors Symington and Eaton be appointed as delegates to the JRPP.**

2 That Council appoint Councillor Wynn as an alternate delegate to the JRPP.

3 That Council advise the secretariat of JRPP of these changes to its representation.

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

AGAINST: COUNCILLOR WYNN

QUESTIONS ON NOTICE**Q27/11 Shire Wide Security Contract - Relocatable Security Cameras**

Councillor William Symington
F2010/00500

“Following the recent adoption of the Shire Wide Security Contract, can staff report on the status of, and the prioritised locations for, the installation of the re-locatable security cameras, that was adopted by resolution of Council in February 2011?”

CONFIDENTIAL SESSION

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

That Council move into Confidential Session.

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

AGAINST: NIL

At this stage of the meeting being 10.51 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 as the items listed come within the following provisions:-

OPEN SESSION

Council resumed in open session at 11.27 pm and the General Manager reported on proceedings of the confidential session of the ordinary meeting of council as follows:

8.1 Review of Process - 464 Ruttleys Road, Mannering Park

That Council receive and note the report on Review of Process – 464 Ruttleys Road, Mannering Park.

THE MEETING closed at 12.20 am.

2.1 DA 772/2011 - Proposed Strata Subdivision of an Approved Residential Flat Building at Ourimbah

TRIM REFERENCE: DA/772/2011 - D02802892

MANAGER: Peter Fryar, Manager Development Assessment

AUTHOR: Mark Greer; Senior Development Planner

SUMMARY

An application has been received for a Strata Title Subdivision of an approved residential flat building containing 15 units at Ourimbah. 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	Burns Road Developments Pty Ltd c/- Trehy Ingold Neate
Owner	as above
Application No	772/2011
Description of Land	Lot 2 DP 1000356 No 1 – 9 Burns Road, Ourimbah
Proposed Development	Strata Subdivision – Fifteen (15) Lots
Zoning	2(a) zone
Existing use	Residential Flat Building

RECOMMENDATION

- 1 ***That Council grant consent subject to the conditions detailed in the schedule attached to the report having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.***
- 2 ***That Council assume the concurrence of the Director General of the Department of Planning for the use of State Environmental Planning Policy No 1 to vary the development standard of Clause 42D of Wyong Local Environmental Plan 1991 to permit the proposed development.***

PRECIS

- The application is for the Strata title subdivision of an approved residential flat building currently under construction.
- The site is zoned 2(a) Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP).

2.1 DA 772/2011 - Proposed Strata Subdivision of an Approved Residential Flat Building at Ourimbah (contd)

- The application for subdivision seeks a variation to the provisions of Clause 42D of the WLEP which requires a minimum allotment area of 450m² in the 2(a) zone. A formal objection seeking a variation to the provisions of Clause 42D of WLEP has been submitted pursuant to the provisions of State Environmental Planning Policy No 1 (SEPP 1) in support of the application.
- As a result of a directive by the former Department of Planning to all NSW Council's, any applications that rely on a SEPP 1 variation greater than 10% are required to be reported to full Council for determination.
- Council delegation extends to assuming concurrence of the Department of Planning and Infrastructure (DPI) for the use of SEPP 1 in this instance.

INTRODUCTION

The Proposed Development

Development Consent is sought for the strata subdivision of an approved residential flat development at Ourimbah.

The subject land was previously known as Ourimbah Caravan Park, being a large parcel (4675 sq. m) neighbouring the Ourimbah "Shell" service station.

The caravan park contained at its peak 37 vans, most of which were permanently occupied. Early periods saw the park as a major "stop-over" for north bound traffic. As the road network and general transportation improved, the short-term stay at the park became less important. Over the ensuing years, long-term accommodation became the focus of the business until recently when the park ceased to operate.

Consent was granted in 2004 for a 15 unit residential flat development to replace the former caravan park business. Residential flat buildings (units, townhouses etc) are not permitted in the 2(a) Residential zone. Approval for the development was granted under the "Existing Use Rights" provisions of the EP&A Act.

Commencement of works under DA 827/2004 began in early 2006 with the demolition of the existing amenities buildings and removal of the last of the on-site vans. Construction of the new buildings has continued to gather pace and it is expected that the development will be completed later this year.

The current application is to strata subdivide the development approved under DA 827/2004. Communal space and visitor parking are shared in a common property arrangement.

In most instances, strata subdivision whether for residential or industrial purpose is generally a formality in so far as the lodgement, assessment and determination of the development application is concerned. In this case however, the 2(a) zoning of the land has specific subdivision development standards. In brief, the minimum standard for allotments in the 2(a) zone is 450m² identified in WLEP. The application proposes lots less than this standard and accordingly, the applicant seeks to use the provisions of SEPP 1 to enable Council to vary the development standard.

2.1 DA 772/2011 - Proposed Strata Subdivision of an Approved Residential Flat Building at Ourimbah (contd)

VARIATIONS TO POLICIES

Clause	42D
Standard	450m ² minimum lot size
LEP/DCP	WLEP 1991
Departure basis	Lots 1 – 15 vary from 188m ² to 221m ²
Variation %	up to 58.30%

HISTORY

On October 10 1994, approval was granted to DA 341/94 for Commercial Development, i.e. new service station. Approval was subsequently amended in July 1996 and September 1997.

On December 12 1996, approval was granted to DA878/96 for a two-lot Subdivision of the subject land to sever the service station from the caravan park.

On 22 October 2004, approval was granted to DA 827/2004 for fifteen (15) units. Council recognised “physical commencement” of DA 827/2004 with the issue of correspondence on 22 April 2009. The approval was modified under Section 96 applications in 2009 and 2011.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

State Environmental Planning Policies (SEPP)

The applicant has elected to use the provisions of SEPP 1 in order for Council to vary the minimum lot requirements under Clause 42D of the WLEP for the purpose of the strata subdivision.

SEPP 1 is a planning policy established by the NSW State Government to make development standards more flexible. It allows Council’s to consider a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.

The merit of the applicant’s SEPP 1 is addressed further in the report. It is to be noted that the former Department of Planning has instructed Council in Circular No PS 08-014 that where variations in excess of 10% to a LEP provision occurs, the application must be determined at a Council meeting rather than at staff delegation level .

The DofIP also advise that Council is not required to gain concurrence from the Director General for the use of SEPP 1 if approved by Council.

2.1 DA 772/2011 - Proposed Strata Subdivision of an Approved Residential Flat Building at Ourimbah (contd)

Wyong Local Environmental Plan 1991

Subdivision is defined under Section 4B of the EP&A Act 1979 which specifically references strata title as a form of subdivision.

Although not specifically defined in Clause 7 of WLEP 1991, the development is referred to as "Subdivision" in Clause 13 of WLEP 1991, and is permitted with consent.

The subject site is zoned 2(a) Residential. Under the provisions of Clause 42D of WLEP 1991, subdivision within the 2(a) zone must not create lots that have an area less than 450m² unless:

.....(b)" in the case of land within Zone No 2 (a), is granted concurrently with a development consent for a dual occupancy building or a detached dual occupancy on the same land and the subdivision will be carried out in conjunction with the dual occupancy development."

The proposed subdivision will create 15 strata lots with an area less than 450m². The subdivision of the land does not involve dual occupancy development and therefore a SEPP 1 objection is required to enable the subdivision to be considered.

It is noted that the residential flat development approved under DA 827/2004 was permitted under "Existing Use Rights". The proposal to subdivide (strata or any other type) to create lots less than 450m² cannot be considered under those provisions given that the parent allotment is a Torrens Title parcel not a Strata allotment and therefore no existing or pre-existing circumstances exist.

The applicant lodged a SEPP 1 objection to vary the development standards contained within Clause 42D of WLEP 1991. The merits of the objection are discussed under relevant headings in this report.

Development Control Plan 2005

The proposed development is considered having regard to the relevant Chapters contained within Development Control Plan 2005, with particular reference drawn to the following;

Development Control Plan 2005 – Chapter No 66, Subdivision:

Strata Subdivision is referred to under part 5.3 which states:

1.5.3 Strata Plan Subdivision

The Strata Titles Act 1973 applies principally to the subdivision of buildings into separate parts/units, with additional areas of land designated as common property. Those owning lots within the Scheme have a proportional entitlement to use the common property and also a proportional responsibility for its maintenance. Examples are buildings such as townhouses, flats, industrial units and shops, with outside areas such as gardens, driveways and car parking spaces usually being part of the common property lot.

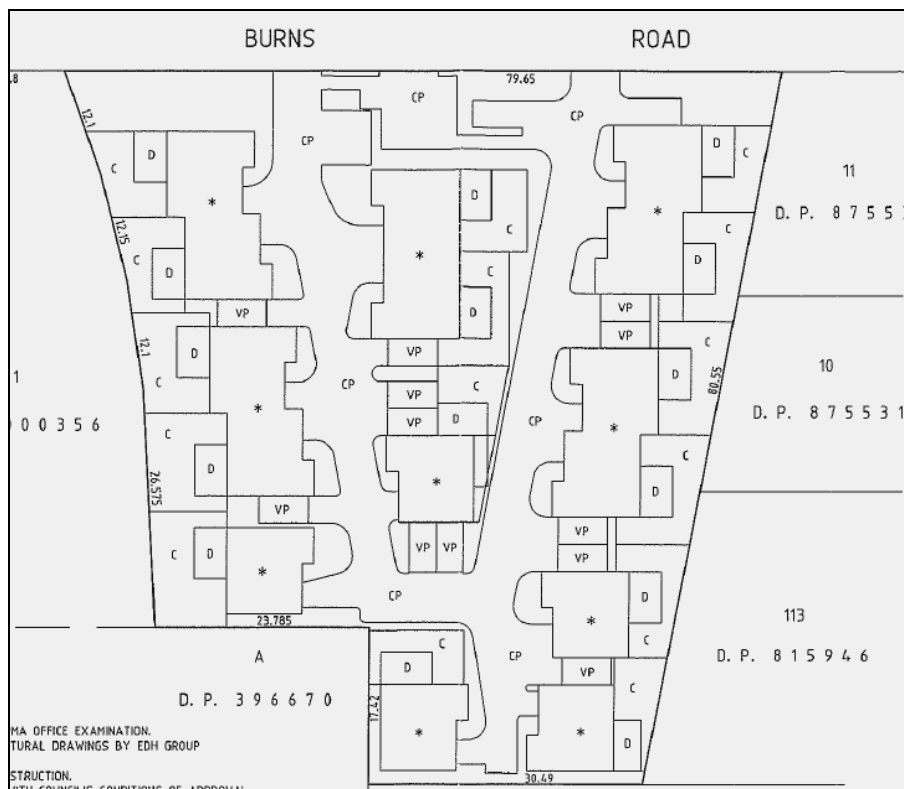
The proposal is consistent with the principles referred to above.

2.1 DA 772/2011 - Proposed Strata Subdivision of an Approved Residential Flat Building at Ourimbah (contd)

Strata Title Subdivision Strategy

The existing Torrens Title parcel of land has an area of 4,675m². It is proposed to establish fifteen (15) lots within a strata title arrangement in the following manner:

Proposed lot	Area m ²	Features
1	197	Two storey brick dwelling, garage, open space
2	214	Two storey brick dwelling, garage, open space
3	221	Two storey brick dwelling, garage, open space
4	221	Two storey brick dwelling, garage, open space
5	205	Two storey brick dwelling, garage, open space
6	194	Two storey brick dwelling, garage, open space
7	195	Two storey brick dwelling, garage, open space
8	238	Two storey brick dwelling, garage, open space
9	229	Two storey brick dwelling, garage, open space
10	218	Two storey brick dwelling, garage, open space
11	205	Two storey brick dwelling, garage, open space
12	203	Two storey brick dwelling, garage, open space
13	201	Two storey brick dwelling, garage, open space
14	209	Two storey brick dwelling, garage, open space
15	188	Two storey brick dwelling, garage, open space
CP	unspecified	Common property – driveway and internal access road
VP	unspecified	Visitor parking spaces



Proposed strata plan

The strata layout “mirrors” the unit layout in terms of the position of the buildings, garages and private open space allocations.

2.1 DA 772/2011 - Proposed Strata Subdivision of an Approved Residential Flat Building at Ourimbah (contd)

State Environmental Planning Policy No 1 – Development Standards

The aim and objectives of SEPP No. 1 is to provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.

Under Clause 6 of SEPP 1, the applicant must provide a written objection that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case, and must also specify the grounds of that objection.

The applicant has submitted a SEPP 1 objection requesting Council's to vary the standard contained within Clause 42D of WLEP 1991 to enable consent to be granted. Refer Attachment 3.

Input, the applicants SEPP 1 objection states:

- *The proposed development merely involves a “paper strata title subdivision” of an existing unit development, which was approved initially by Wyong Shire Council on 22 October 2004, under Development Consent No 827/2004;*
- *Access to the site is readily available and will remain unchanged as a result of the proposed subdivision development;*
- *The removal of existing trees and vegetation is not required to accommodate the proposed subdivision development;*
- *The proposed subdivision development is considered to provide diversity in lot size and opportunities for housing choice within the immediate locality;*
- *The proposed subdivision development does not compromise or alter the front, rear or side setback distances of the existing development on site;*
- *Residential amenity will be maintained and remain unchanged;*
- *The proposed subdivision will not detract from the overall scenic quality of this locality nor will it compromise the setting of the surrounding area. The proposal is considered to be consistent with the adjoining residential development;*
- *Water, sewage and all utility services are available to each proposed allotment;*
- *The proposed development will result in negligible impacts to adjoining lands and the environment.”*

2.1 DA 772/2011 - Proposed Strata Subdivision of an Approved Residential Flat Building at Ourimbah (contd)

The Land and Environment Court of NSW has set guidelines and principles to apply in the consideration of a SEPP 1 objection. Assessment of the application in accordance with the guidelines is as follows:

Is the planning control in question a development standard?

It has been acknowledged by the Court that a numerical description in the form of a maximum or minimum area for lot sizes (as identified under Clause 42D) is deemed to be a development standard.

The extent of departure (as a reduction) to the minimum allotment requirement of Clause 42D is a 58% variation.

It should be noted that Council's delegation extends to assuming concurrence of the Director General DofPI for the use of SEPP 1 for strata subdivisions. Advice previously received from DofPI on the issue of strata proposals under Clause 42D clearly establishes Council's ability to determine such applications.

Accordingly, Council has the delegation to determine the application.

What is the underlying object or purpose of the standard?

The underlying purpose of the standard is to maintain a minimum land area for individual residential development and consequently control the density of residential development in a low density zone. The strata subdivision is to provide separate title for individual residential units within the development and consequently the variation will not result in additional density of development beyond that approved under DA 827/2004.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The circumstances of the subject application that the residential flat building approved under existing use rights. The fact that the proposal was assessed on merit and found to be an appropriate form of development would suggest that the overlaying of a strata layout poses no adverse consequences to the built form of development.

Strata Title was introduced in the Conveyancing Act in 1961 to enable subdivision of a building either part or full in title deed. Strata titling applies to a variety of built form and is regarded as the foremost manner of establishing separate titles for residential flat development. Accordingly it is considered that it would be unreasonable or unnecessary to insist on compliance with the LEP standard when consideration is given to the intent of the application.

Is the objection well founded?

The applicant's SEPP 1 objection is considered well founded. The objection argues that the strict application of the standard would hinder the orderly use of the land in so much that a strata scheme provides the best form of land management.

2.1 DA 772/2011 - Proposed Strata Subdivision of an Approved Residential Flat Building at Ourimbah (contd)

CONCLUSION

The proposed strata subdivision is considered to be an appropriate means of providing separate land tenure for the residential units within an approved residential flat development. The proposal involves a variation to the minimum allotment requirement contained within Clause 42D of WLEP 1991.

The application is supported by a written objection submitted pursuant to the provisions of SEPP1. The SEPP 1 objection is supported as strict compliance with the standard in the circumstances is considered to be unreasonable and unnecessary.

On its merit, the proposed strata subdivision development proposal is supported.

ATTACHMENTS

- | | | |
|---|-----------------------------|-----------|
| 1 | Draft Conditions of Consent | D02802872 |
| 2 | SEPP 1 Objection | D02802886 |
| 3 | Development Plans | D02802888 |

Date: 13 October 2011
Responsible Officer: Mark Greer
Location: 1-9 Burns Road, OURIMBAH NSW 2258
 Lot 2 DP 1000356
Owner: Burns Road Developments Pty Ltd
Applicant: Burns Road Developments Pty Ltd
Date Of Application: 1 September 2011
Application No: DA/772/2011
Proposed Development: 15 lot strata subdivision
Land Area: 4675.00

PROPOSED CONDITIONS

Approved Plans

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

Title	Drawing No.	Revision	Date	Drawn By
Strata Subdivision	19300ASP	A	-	Trehy Ingold Neate

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.

No Conditions

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.

No Conditions

During Construction Works:

The following conditions must be satisfied during construction works.

No conditions

Prior to Release of Subdivision Certificate:

The following conditions must be satisfied prior to the release of a Subdivision Certificate.

Subdivision– Compliance Requirements

- 2 The submission of details to demonstrate the completion of all works required under Development Consent No DA/827/2004/B prior to issue of a Subdivision Certificate.

Ongoing Operation:

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

No Conditions

ATTACHMENT 2 - SEPP 1 Objection**1.5 Environmental Planning Instrument which specifies the Development Standard:**

Wyong Local Environmental Plan (LEP) 1991.

1.6 Proposed Variation to Development Standard:

Wyong Shire Council granted consent to Development Application No. 827/2004 on 22 October 2004 proposing a *Residential Flat Building consisting of fifteen townhouses*. Subsequent Section 96 Applications varied the application and were consented to on 29 June 2010 and 28 April 2011.

The terminology contained within Clause 42D, captures all subdivision developments including strata subdivision proposing allotment areas of less than 450m² and which do not fall within the requirements of sub-clauses (a) or (b).

Whilst the LEP does not specify the intention of clause 42D it is presumed that Council seeks to maintain minimum allotment sizes of 450m² to ensure that new dwelling houses are orientated to address the street frontage, achieve good solar access and airflow and allow for adequate building separation ensuring compliance with the requirements of the Building Code of Australia. In addition, allotments to be created must enable the provision of adequate open space, drying areas and car parking. By providing for a minimum allotment size of 450m² these objectives can be generally achieved without compromise.

Sub clause (a) enables the subdivision of older Dual Occupancy Developments; presumed to have been created under the provisions of State Environmental Planning Policy 45 – Metropolitan Residential Development.

Sub clause (b) enables the subdivision of applications for subdivision of newly created Dual Occupancy Developments created in compliance with the provisions of councils Development Control Plan and specifically Chapter 58 - Dual Occupancy Development.

There appears to be no justification in the prevention of subdivision of Dual Occupancy Development created after the appointed date (5 November 1997) as specified in sub clause (a) and not having been subdivided at the time of creation in accordance with the requirements of sub clause (b).

Therefore, it can only be assumed that such a provision is in place to simplify the assessment process for the consent authority for such applications. Accordingly, such provision does not

serve to achieve an objective of maintaining minimum allotment sizes, prevent the retention of aging development or achieve a better urban design outcome. Accordingly, it is contended that such provision does not serve a valid planning purpose.

Lodgement of this SEPP No. 1 Objection enables council to consider the subject application in the knowledge that strict compliance with the relevant Clause 42D(b) of the Wyong Shire Council's Local Environmental Plan 1991 is not achieved. However provision of SEPP 1 enables for an assessment of the proposed development to continue and proceed to a determination.

It is, therefore, requested that due consideration be given to this objection with regard to enforcing strict compliance with Clause 42(D) for the following reasons:

- The proposed development merely involves a "paper Strata Title subdivision" of an existing unit development, which was approved initially by Wyong Shire Council on 22 October 2004, under Development Consent No. 827/2004/B, with final approval made on 28 April 2011;
- Access to the site is readily available and will remain unchanged as a result of the proposed subdivision development;
- The removal of existing trees and vegetation is not required to accommodate the proposed subdivision development;
- Existing stormwater disposal drains toward the street drainage system in Burns Road and will remain unchanged;
- The proposed subdivision development is considered to provide diversity in lot size and opportunities for housing choice within the immediate locality;
- The proposed subdivision development does not compromise or alter the front, rear or side setback distances of the existing development on site;
- Residential amenity will be maintained and remain unchanged;
- The proposed subdivision will not detract from the overall scenic quality of this locality nor will it compromise the setting of the surrounding area. The proposal is considered to be consistent with adjoining residential development;
- Water, sewage and all utility services are available to each proposed allotment;
- The proposed development will result in negligible impacts to adjoining lands and the environment.

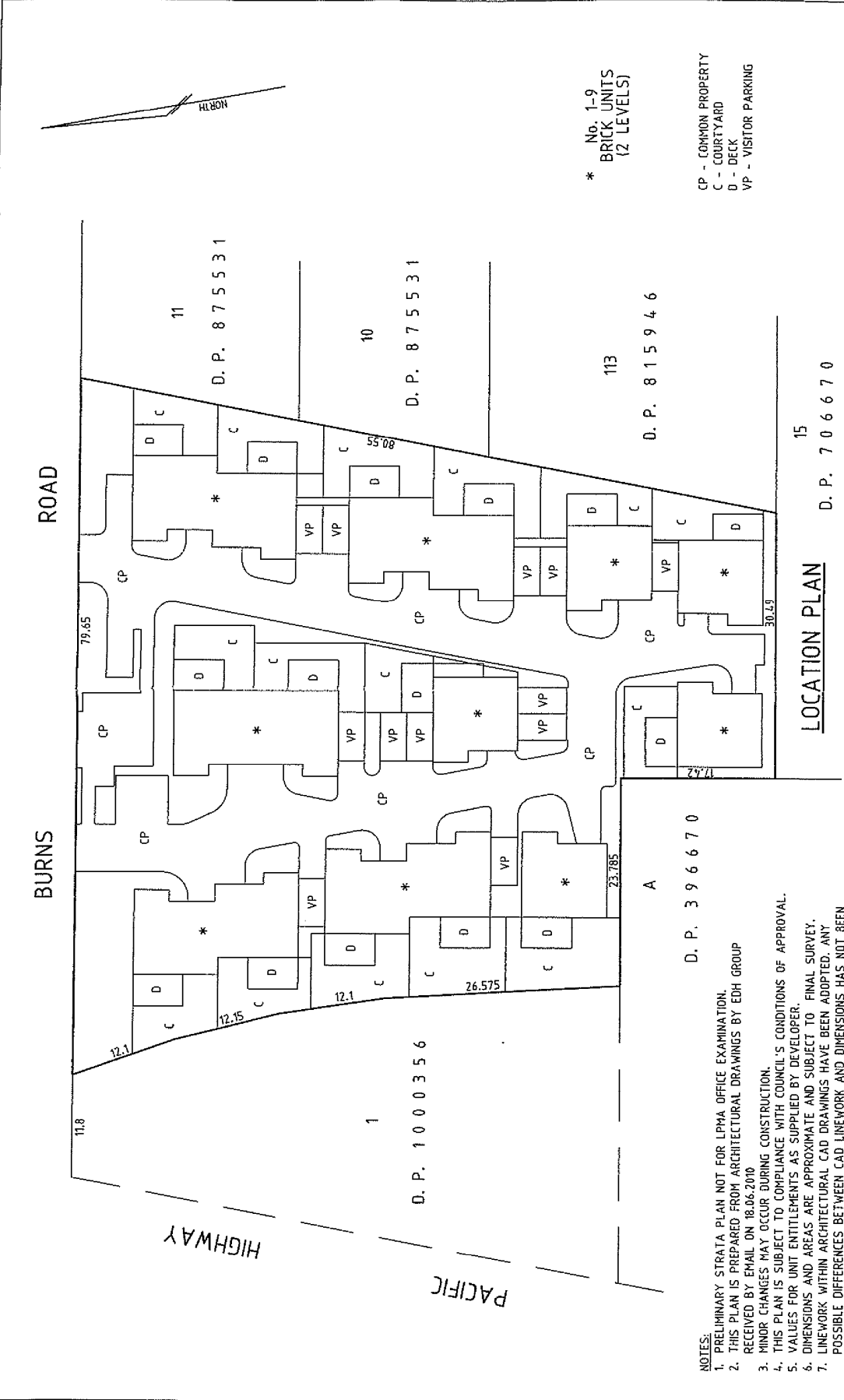
In conclusion, it is considered that the proposed subdivision development will have negligible impact on the subject site or adjoining lands and is considered to meet and comply with the objectives of the 2(a) zoning provisions. In addition, the primary objective of Clause 42D is to ensure that allotments with site areas of less than 450m² are discouraged in the 2(a) or 2(e) zones other than where a compliant development is subdivided making provision for alternate housing form and choice.

Council's reasonableness is therefore requested and strict compliance with Clause 42D(b) of Wyong Shire Council's Local Environmental Plan 1991 would be considered unreasonable and unnecessary in the circumstances of the case.

STRATA PLAN FORM 2 (A3)

WARNING: Creasing or folding will lead to rejection

Sheet 1 of 5 Sheet(s)



* No. 1-9
BRICK UNITS
(2 LEVELS)

CP - COMMON PROPERTY
C - COURTYARD
D - DECK
VP - VISITOR PARKING

LOCATION PLAN
D. P. 7 0 6 6 7 0

- NOTES:
1. PRELIMINARY STRATA PLAN NOT FOR LPPA OFFICE EXAMINATION.
 2. THIS PLAN IS PREPARED FROM ARCHITECTURAL DRAWINGS BY EDH GROUP RECEIVED BY EMAIL ON 18.06.2010
 3. MINOR CHANGES MAY OCCUR DURING CONSTRUCTION.
 4. THIS PLAN IS SUBJECT TO COMPLIANCE WITH COUNCIL'S CONDITIONS OF APPROVAL.
 5. VALUES FOR UNIT ENTITLEMENTS AS SUPPLIED BY DEVELOPER.
 6. DIMENSIONS AND AREAS ARE APPROXIMATE AND SUBJECT TO FINAL SURVEY.
 7. LINEWORK WITHIN ARCHITECTURAL CAD DRAWINGS HAVE BEEN ADOPTED. ANY POSSIBLE DIFFERENCES BETWEEN CAD LINEWORK AND DIMENSIONS HAS NOT BEEN DETERMINED.
 8. THE FINAL STRATA PLAN MAY OR MAY NOT BE ACCOMPANIED BY A SECTION 88B INSTRUMENT.

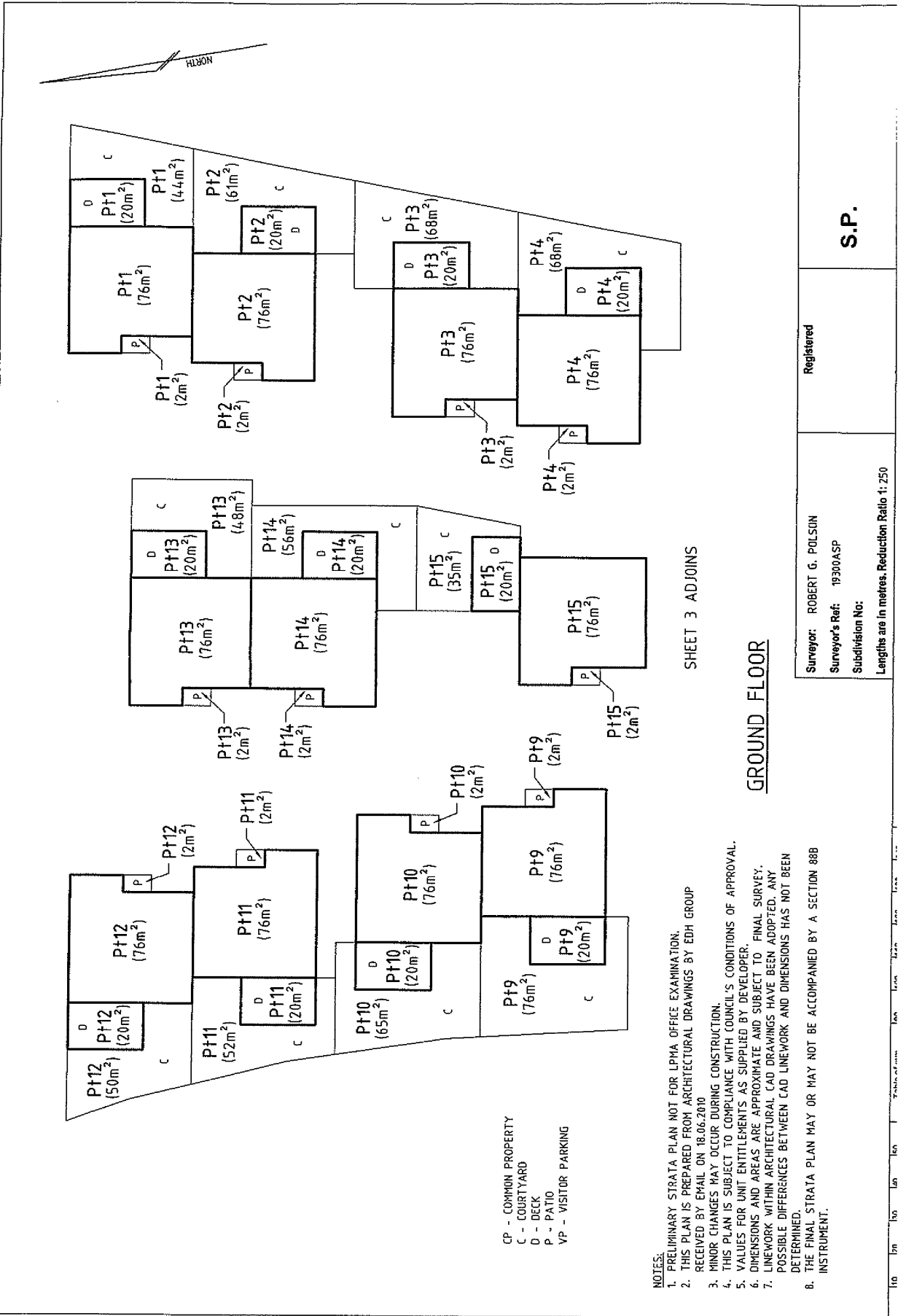
Surveyor: ROBERT G. POLSON
Registered
Surveyor's Ref: 19300ASP
Subdivision No:
Lengths are in metres. Reduction Ratio 1:100

S.P.

STRATA PLAN FORM 2 (A3)

WARNING: Creasing or folding will lead to rejection

Sheet 2 of 5 Sheet(s)

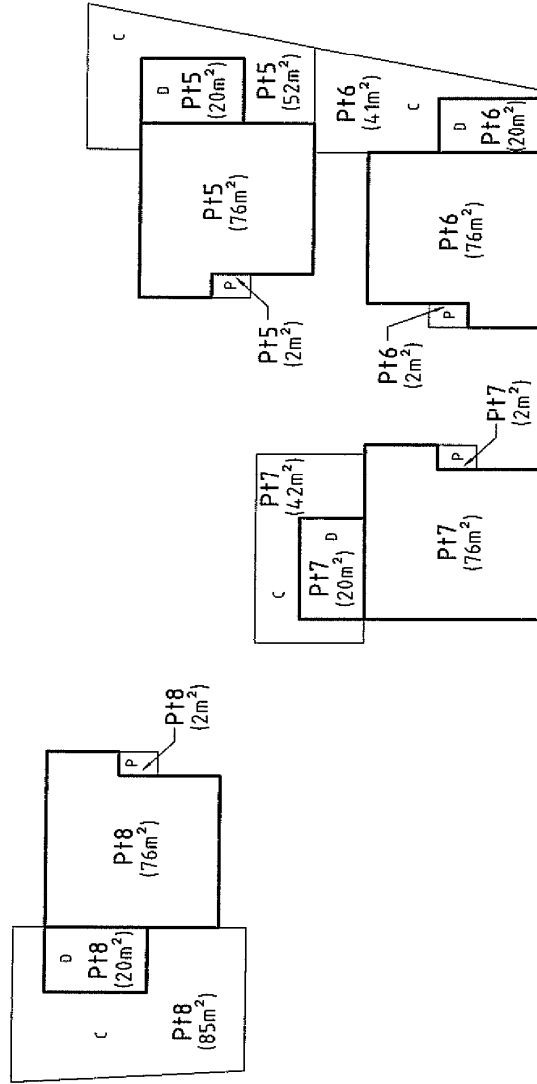


STRATA PLAN FORM 2 (A3)

WARNING: Creasing or folding will lead to rejection

Sheet 3 of 5 Sheet(s)

SHEET 2 ADJOINS



- CP - COMMON PROPERTY
- C - COURTYARD
- D - DECK
- P - PATIO
- VP - VISITOR PARKING

GROUND FLOOR

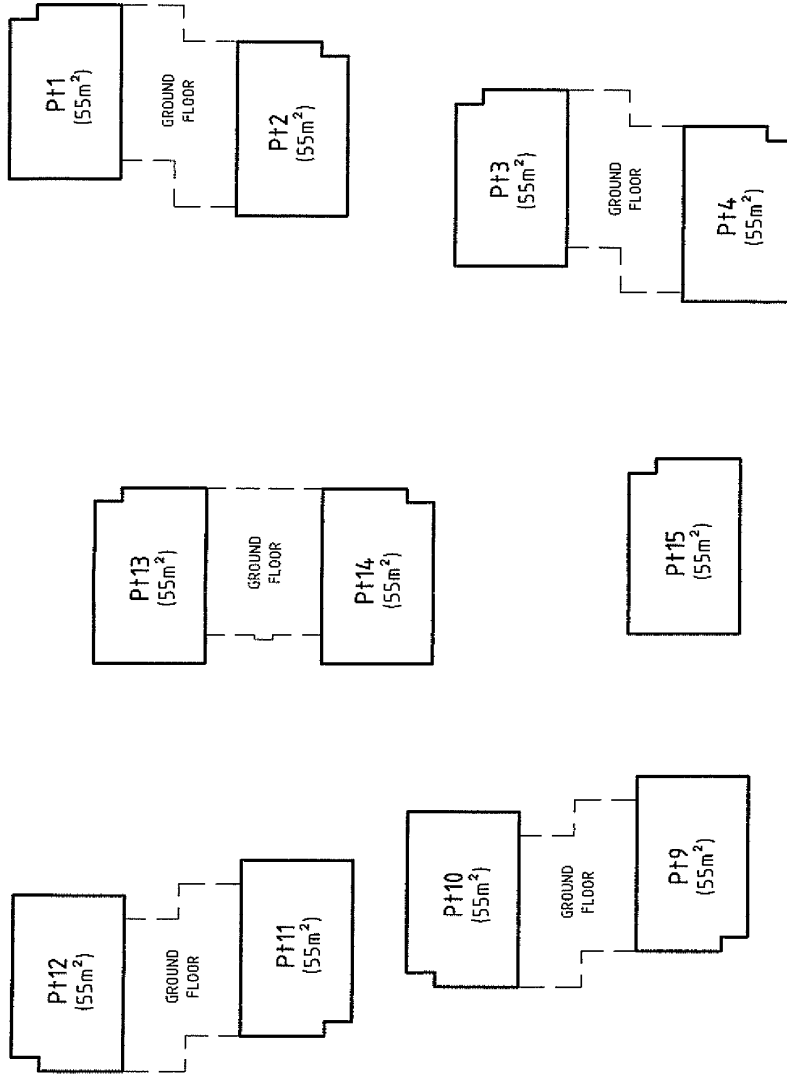
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 8. THE FINAL STRATA PLAN MAY OR MAY NOT BE ACCOMPANIED BY A SECTION 88B INSTRUMENT.

Surveyor: ROBERT G. POLSON	Registered
Surveyor's Ref: 19300ASP	
Subdivision No:	S.P.
Lengths are in metres. Reduction Ratio 1: 250	

STRATA PLAN FORM 2 (A3)

WARNING: Creasing or folding will lead to rejection

Sheet 4 of 5 Sheet(s)



- CP - COMMON PROPERTY
- C - COURTYARD
- O - DECK
- VP - VISITOR PARKING

- NOTES:**
1. PRELIMINARY STRATA PLAN NOT FOR LPMO OFFICE EXAMINATION.
 2. THIS PLAN IS PREPARED FROM ARCHITECTURAL DRAWINGS BY EDH GROUP RECEIVED BY EMAIL ON 18.06.2010
 3. MINOR CHANGES MAY OCCUR DURING CONSTRUCTION.
 4. THIS PLAN IS SUBJECT TO COMPLIANCE WITH COUNCIL'S CONDITIONS OF APPROVAL.
 5. VALUES FOR UNIT ENTITLEMENTS AS SUPPLIED BY DEVELOPER.
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SHEET 5 ADJOINS

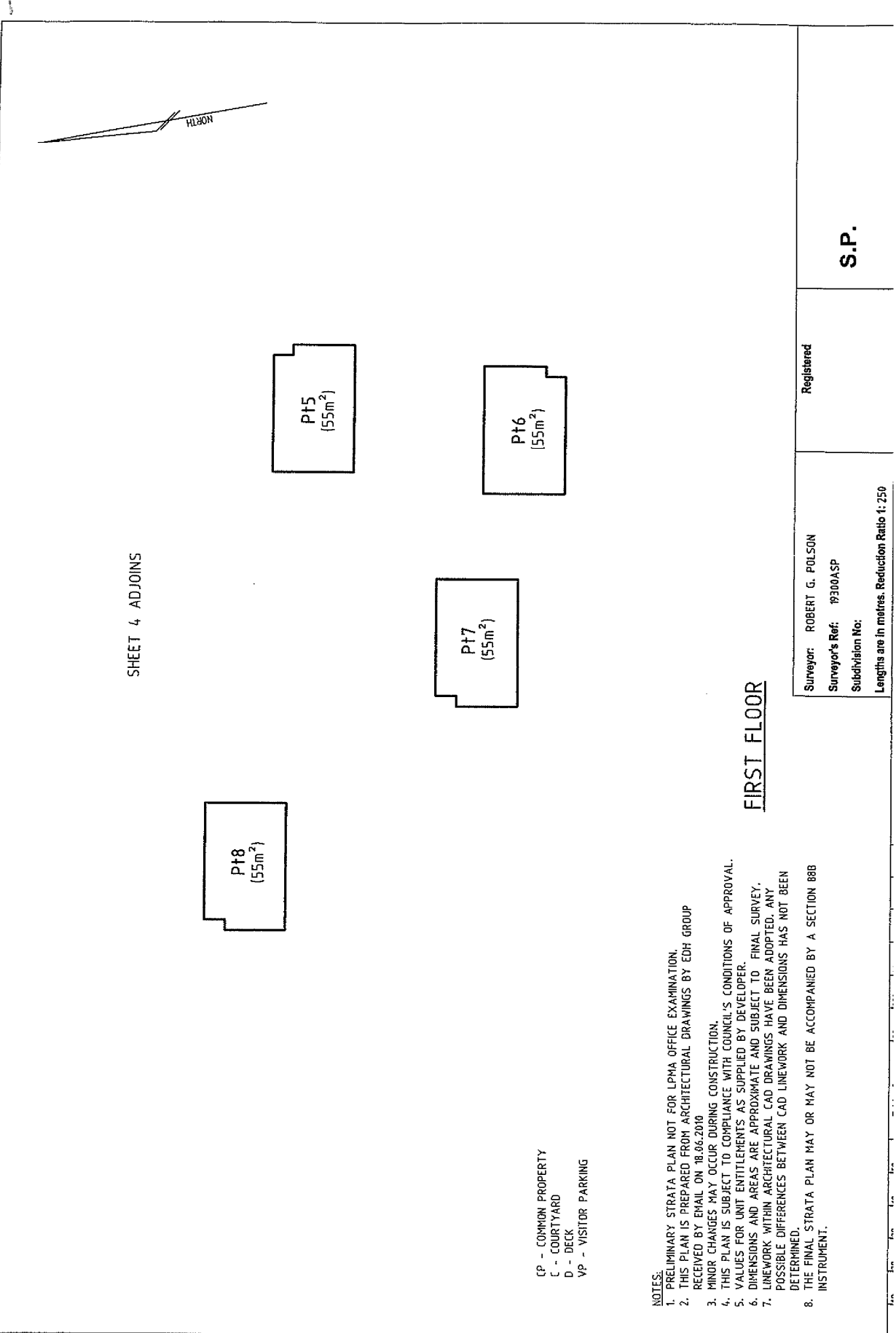
FIRST FLOOR

Registered	S.P.
Surveyor: ROBERT G. POLSON	
Surveyor's Ref: 19300ASP	
Subdivision No:	
Lengths are in metres. Reduction Ratio 1:250	

STRATA PLAN FORM 2 (A3)

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Sheet 5 of 5 Sheet(s)



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FIRST FLOOR

Surveyor: ROBERT G. POLSON
 Registered
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 Subdivision No:
 Lengths are in metres. Reduction Ratio 1: 250

S.P.

3.1 Proposed Development Application and Lease of part of Lot 6 DP 863731 at 2 Mingara Drive, Tumbi Umbi to Mingara Leisure Group

TRIM REFERENCE: F2011/01563 - D02812466

MANAGER: Greg Ashe; Manager Economic and Property Development

AUTHOR: Simone Barwick; Officer

SUMMARY

Approval is sought to lease part of Lot 6 DP 863731 at 2 Mingara Drive, Tumbi Umbi to Mingara Leisure Group at rent of \$5,000 per annum for a term of five (5) years and for Council as owner to endorse a Development Application and Construction Certificate Application for renovations to the existing pylon advertising sign currently situated on Council owned land Lot 6 DP 863731, 2 Mingara Drive, Tumbi Umbi.

RECOMMENDATION

- 1 That Council grant owner's consent for the lodgement of a Development Application and Construction Certificate by Mingara Leisure Group for the renovations to the existing pylon advertising sign**
- 2 That Council lease part of Lot 6 DP 863731, 2 Mingara Drive, Tumbi Umbi to Mingara Leisure Group for the purpose of advertising for a term of 5 years at rent of \$5,000.00 per annum, subject to development consent being granted.**
- 3 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Lease between Wyong Shire Council and Mingara Leisure Group.**
- 4 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between Wyong Shire Council and Mingara Leisure Group.**

BACKGROUND

The Mingara Leisure Group ("MLG") has submitted for signing by Council as the owner of the land being Lot 6 DP 863731 a Development Application and Construction Certificate for renovations to the existing pylon sign for advertising purposes on the site.

The existing pylon sign was erected in 1996 by way of Development Application. Investigations into the history of the erection of the sign have revealed that no formal tenure has ever been agreed to or granted by Council.

MLG has exclusive use of the existing pylon sign on the site. In this circumstance, to formalise the usage of the sign on Council land it is considered appropriate for Council to grant a lease to MLG.

Prior to considering whether Council should sign the Development Application and Construction Certificate, MLG was requested in the first instance to apply for a lease of the existing pylon sign.

3.1 Proposed Development Application and Lease of part of Lot 6 DP 863731 at 2 Mingara Drive, Tumbi Umbi to Mingara Leisure Group (contd)

Lot 6 DP 863731 is zoned 6C Proposed Open Space & Recreation. There is a pylon sign currently on the site which is used exclusively by MLG, however there is no formal agreement with MLG for the use of the pylon sign.

THE PROPOSAL

The Mingara Leisure Group has submitted for signing by Council as the owner of Lot 6 DP 863731 a Development Application and Construction Certificate for renovations to the existing pylon sign for advertising purposes on the site.

As there is no formal agreement between Council and MLG, Council propose to enter into a Lease with MLG over part of Lot 6 DP 863731 being the area of the pylon sign.

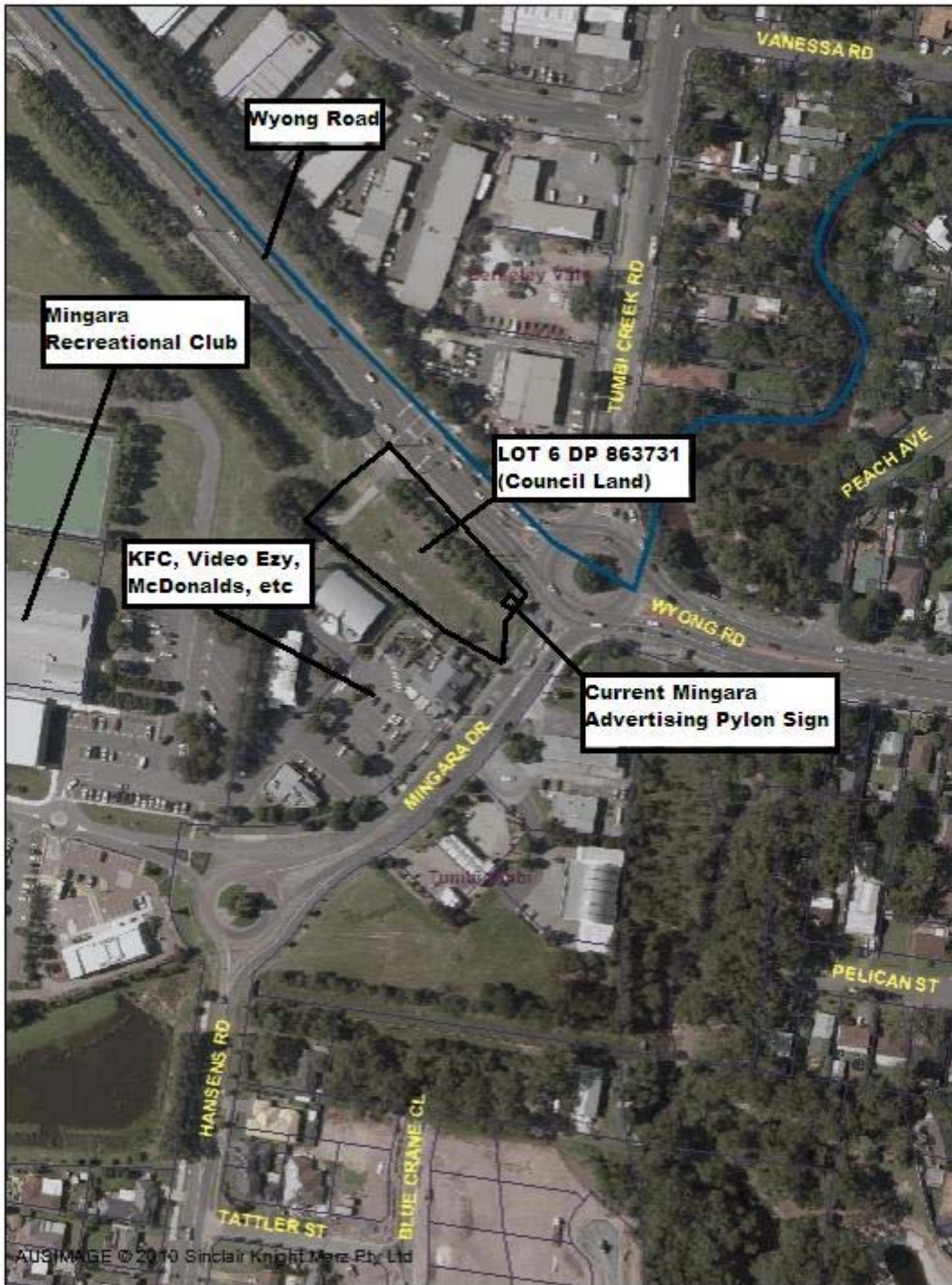
A Lease with MGL would protect the parties' interests in respect of the operation and usage of the pylon sign and in accordance with Council's policy a 5 year term is proposed. A concessional rent of \$5,000.00 per annum would be sought.

MLG would be responsible for maintenance and repairs, public liability and building insurance.

Council has granted two licences over road reserve for "directional signs" within an area of approximately 5m x 2m, one is charged at \$1,271 pa plus GST, the other is charged at \$1,000 pa plus GST, both with annual CPI adjustments. These are not advertising signs in or in prominent locations. Further, Council has use of two advertising signs on the F3 Freeway being the north facing panel of the sign at Mardi and the south facing panel of the sign at Palmdale. Council has on sold these rights on an annual basis for \$50,000 plus GST for each sign. These signs are approximately 15m wide.

The MLG sign is for "advertising" and 9 metres high excluding footings and 3 metres wide is much larger than the "directional signs" and has maximum exposure to east and west bound traffic on Wyong Road.

The F3 Freeway signs are larger with greater exposure and do not comprise a community benefit element. Accordingly it is considered that reasonable rent for the MLG sign on Council's land would be \$10,000.00. Council may consider a concession to account for the Mingara Recreation Club's community involvement and seek rent of \$5,000.00 only.



3.1 Proposed Development Application and Lease of part of Lot 6 DP 863731 at 2 Mingara Drive, Tumbi Umbi to Mingara Leisure Group (contd)

OPTIONS

- 1 Approve the Lease and DA for the renovations to the sign as is to MLG over part of Lot 6 DP 863731 at a commercial rental of \$10,000.00.
- 2 Approve the Lease and DA of the sign as is to MLG over part of Lot 6 DP 863731 at a reduced rental of \$5,000.00 due to the fact that MLG and Council are working in partnership for the benefit of the community.
- 3 Council may consider another to grant a lease to MLG at nominal rent on the condition that Council would have part of the sign dedicated for Council's use.

STRATEGIC LINKS

Contribution of Proposal to the Principal Activity

Nil impact.

Financial implications

There is no additional cost to Council approving the lease. The Lessee will be responsible for the maintenance and insurance and outgoings in association with the licence over part of the land.

Principles of Sustainability

By building partnerships and engaging with and listening to the community.

CONSULTATION

As the land is zoned open space, the Manager, Sport, Leisure & Recreation has been consulted and has advised there are no issues with this proposal.

GOVERNANCE AND POLICY IMPLICATIONS

Council's land is classified as Community Land for the purposes of the Local Government Act 1993 and Plan of Management No. 5 applies which authorises leases.

The Conveyancing Act 1919 applies in respect to leases and the Local Government Act 1993 enables Council to lease Council land.

CONCLUSION

That Council approve the Development Application and Construction Certificate for renovations to the existing pylon sign for advertising purposes on the site and to enter into a Lease with MLG over part of Lot 6 DP 863731 being the area of the pylon sign.

The signage on Council land is consistent with the local area and community needs. The Lease is consistent with Council obligations.

ATTACHMENTS

Nil.

4.1 Conduct of the 2012 Local Government Election

TRIM REFERENCE: F2011/01766 - D02782249

AUTHOR/MANAGER: Lesley Crawley; Manager Corporate Governance

SUMMARY

Reporting options to conduct the 2012 Local Government Election for Wyong Shire.

RECOMMENDATION

That Council engage the NSW Electoral Commission to conduct the Local Government Election and any referendums or polls for Wyong Shire up to and including 2012.

BACKGROUND

The *Local Government Amendment (Elections) Act 2011* was passed by the NSW Parliament and commenced on 27 June 2011. The amendments remove the mandate of the NSW Electoral Commission (NSWEC) to run local government elections, and instead return the responsibility to councils (section 296). (A history of the NSWEC involvement in the NSW Local Government Elections is attached).

Council may now choose how its elections will be administered as they have 12 months after an ordinary election in which to resolve whether to engage the services of the NSWEC for the following ordinary election.

Transitional provisions in the Act enable Council to retain the services of the NSWEC to administer its elections, referendums and polls until the conclusion of the September 2012 ordinary elections, if it chooses to (Schedule 8, clause 102).

As the engagement of the NSWEC will be on a contractual basis from this time onwards, councils will be able to negotiate on commercial terms how their elections will be administered.

In relation to the ordinary elections in 2012, where Council chooses to use the NSWEC, the Council must pass a resolution to this effect before 30 November 2011. This date was prescribed by the Local Government (General) Amendment (Electoral Commissioner) Regulation 2011.

To give the NSWEC certainty, Council must provide a definite commitment by this date. This means that Council must make an unconditional resolution and cannot place caveats such as 'subject to cost' on its resolution. The NSWEC has advised that the deadline is non-negotiable. Should Council not resolve to engage the NSWEC or not resolve to do anything by 30 November 2011 will by default be responsible for the conduct of its own election. There are no provisions in the legislation enabling an extension to be granted or to approach the NSWEC at a later date.

CURRENT STATUS

The following information regarding election statistics for the Shire is provided:

- Polling Day - 8 September 2012
- Enrolment - Approx –105,100
- Est. No: of voters - 89,565
- To be Elected - 10 Councillors
- Postal Votes - Approx – 4,500
- Pre Poll Votes - Approx – 7,350

THE PROPOSAL

This report provides options for Council to consider in respect of the Conduct of the 2012 Wyong Shire Local Government elections.

There are four options:

- 1 Election conducted by NSWEC
- 2 Election conducted by a contractor
- 3 Election conducted by Wyong Shire Council
- 4 Election partially conducted by Wyong Shire Council and partially outsourced to a contractor

The Council at this time must only choose either to accept or decline option 1. Should Council decline Option 1 it may further give direction and/or seek further investigations into options 2-4 prior to making a final decision.

Additional costs would be applicable under all options if a referendum was included at the election.

OPTIONS

The proposed options are described below:

1 Election conducted by NSWEC

Transitional provisions in the Act enable councils to retain the services of the NSWEC to administer their elections, referendums and polls until the conclusion of the September 2012 ordinary elections. (Schedule 8, clause 102).

The NSWEC offers a fully outsourced product covering all aspects of the election process. There is no option for Council to manage individual parts of the process.

Section 55(3) of the Act now provides that Council need not invite tenders before entering into a contract with the Electoral Commissioner for the administration of its elections, constitutional referendums and polls.

The NSWEC has advised that until it knows the actual number of councils that will be its clients, it is difficult to provide accurate cost estimates. As a guide, councils should look to the amount paid in 2008, and adjust for increases in public sector wage costs and the Consumer Price Index. The cost would be on a full cost recovery basis with Council providing an upfront payment followed by instalments, with the last instalment adjusted to reflect actual costs. There is no profit derived by the NSWEC.

The NSWEC has provided a budget estimate based on the cost of the 2008 election adjusted by CPI and wage increases. The estimate is \$681,000. This represents approximately \$6.50 per voter.

As the cost to Council is on a full cost recovery basis there is no opportunity for Council to negotiate the price. However, The Electoral Commissioner has advised that there are some areas where Council may achieve savings including: location and number of polling places, office accommodation for returning officer, level of non-statutory advertising and use of Council contracted advertising prices. The NSWEC has also flagged that it anticipates that the production of ballot papers is likely to be cheaper than that charged in 2008 (56k).

If the Council engages the NSWEC all accountability and responsibility is transferred to the NSW Electoral Commissioner including any insurances, reporting requirements and Section 430 investigations.

The NSWEC also provides an enquiry centre and information on its website. These services would not be available under an alternative arrangement.

At the time of writing this report the NSWEC advised that it had 12 firm responses from Councils engaging its services and that it was expected it would receive requests from at least 80% of NSW councils by the November 30 deadline. If this is the case then economies of scale will be preserved.

2 Election conducted by a contractor

The Local Government and Shires Associations hosted an information seminar concerning the new legislation and invited the only known contractor offering a full service contract to NSW councils.

The contractor is the Australian Election Company (AEC). The AEC is a professional Election Company specialising in the arrangement and conduct of Ballots and Elections for Organisations, including Associations, Businesses, Corporations, Clubs/Societies, Government Departments and Government Instrumentalities. AEC provides a total Ballot and Election service to arrange, control and conduct all Ballot or Election requirements,

Alternatively, Australian Election Company offers training advice and /or consultancy assistance to Organisations so that they might more effectively conduct their own Ballots or Elections.

The AEC will engage one of its pool of Returning Officers and proposes that the person offered for appointment as Council's Returning Officer will be experienced in the management and conduct of Public Elections. It also offers as an alternative that it would consider utilising the services of a Returning Officer who is known to and acceptable to WSC. The Principal indicated that the AEC has approximately 15 experienced Returning Officers available. If more than 15 Councils contract its services there may be a lack of suitably qualified returning officers available.

The AEC offers oversight of the Election by its Principal, Mr Richard Kidd. Mr Kidd was formerly the Area Manager and Supervisor of 13 Australian Electoral Commission Divisional Returning Officers (DRO's). He also possesses recent, detailed and directly relevant experience in the management and conduct of QLD Local Government Elections; he personally funded and organised the first ever totally outsourced Queensland Local Government Election, for Caboolture Shire Council, in March 2000. The Election involved around 60,000 voters and the recruitment, appointment, training and payment of approximately 220 polling officials.

The count would be conducted at a regional count centre using software provided by the contractor. AEC has advised that its software will be audited by Deloitte and certification provided prior to entering into a contract.

WSC has obtained an indicative quote from the AEC for a fully outsourced election which is provided as a confidential enclosure to this report.

The AEC's quote offers a fully outsourced service or a hybrid model where Council could nominate which of its services it requires. The quote includes similar services to that offered by the NSWEC with the exception of a centrally co-ordinated call centre.

The AEC indicates that if a recount was required then it is estimated that the cost would be an additional 5% of total cost.

The AEC has suggested that there are services which may be provided by Council (a hybrid model) and therefore represent further cost savings. This is addressed in the fourth option.

Council would also need to commit resources toward a project manager to ensure that the contract is running in accordance with its specifications and all legislative requirements are being met. It is likely that a senior manager will also be required to co-ordinate information between the contractor and WSC. These resources will need to be captured as costs and reported to the Minister at the conclusion of the election.

Engaging a contractor does not absolve the General Manager from his obligation as "election manager" under the Act. (more detail is provided under the legislative section of this report.)

Given the earlier legislation the contractor has not previously conducted a local government election in NSW. AEC has however experience with some local government events in Queensland and or other non-government organisations. Details are contained in the Confidential enclosure to this report.

It is not considered that the AEC has sufficient experience with Local Government elections in NSW or election events of similar size required by WSC.

3 Election conducted by WSC

An election conducted by WSC would require the recruitment of a suitably qualified returning officer, office assistants and polling and count officials. It would require the engagement of a suitable software provider or purchase of count software. All services such training, accommodation, payroll, enquiry centre, advertising, candidate information, ballot papers, polling centres, the count and statutory reporting would need to be provided.

Given the similarities between the costs submitted by the AEC and the NSWEC and the large wage component of the project, it is likely that WSC would not achieve many economies by undertaking the task independently.

Areas of risk identified in WSC conducting the election are:

- Maintaining a sense of openness, transparency and accountability
- WSC ability to obtain the services of a suitably qualified returning officer and substitute returning officer (a RO and SRO are not permitted to be employees of the Council and must be independent of the Council and Councillors)
- The source/cost of appropriate software to conduct the count in accordance with legislative requirements or the cost of undertaking a manual count.

4 Election partially conducted by Wyong Shire Council and partially outsourced to a contractor

Council may choose to undertake some of the election tasks and contract the remaining services. For example Council may arrange its own advertising, use its payroll functions, employ temporary staff (except returning officer), provide project management, supply polling places, security and election materials.

With the exception of advertising costs it is not considered that Council would achieve any material savings on the remaining items. All items most reported to the Division on a full cost recovery basis. Even if Council were to undertake the project management component there would be a cost in forgoing other projects scheduled to occur. Additional staff would also be required to manage the enquiries generated throughout the election period or there will be a drop in the level of service currently supplied by WSC Customer Contact.

Areas of risk identified in the previous option are also relevant to this option.

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>
12 Administration		Governance of 2012 Election	2012/13 Annual Plan	

Long term Financial Strategy

Nil

Asset Management Strategy

Nil

Workforce Management Strategy

Nil

Link to Community Strategic Plan (2030)

Nil

Budget Impact

The cost of administering the 2012 Local Government Election will be required to be included in the WSC 2012/2013 Annual Plan.

CONSULTATION

A review of feedback received from the community regarding the 2008 Election has been conducted. Little feedback was received with the exception of a request from Gwandalan Summerland Community Precinct Committee for a pre-poll centre to be provided in the north of the Shire which is easily accessible via public transport (eg Lake Haven).

In 2008 two pre-poll voting centres were established; one at the RO's office at Wyong and one at The Entrance. Should Council wish to establish an additional pre-poll centre additional costs would be involved for lease, staff and materials. Council may alternatively move one of the other sites to a more northern location.

The Presidents of the Local Government and Shires Associations have met with the NSW Premier on 19 September 2011 to urgently discuss the intent of the legislation being eroded by the lack of co-operation from the NSWEC. They also requested that the final date for councils to make a decision regarding who runs their elections be pushed back further than the 30 November 2011. The Associations has advised that despite a positive meeting with both Premier O'Farrell and the Minister for Local Government, Don Page MP on 19 September 2011, councils are still awaiting an answer to our request to defer the date for decision making until 31 March 2011.

At the present time however, Council must resolve before 30 November 2011 to retain the Commissioner to administer its elections (other than elections of mayors and deputy mayors by councillors), constitutional referendums and polls until the conclusion of the 2012 ordinary election for councillors. Should Council not make a resolution before 30 November 2011, it will be deemed that the council elections are to be administered by the General Manager

GOVERNANCE AND POLICY IMPLICATIONS

The new provisions will apply to elections for councillors (whether in an area or a ward), the popular election of the Mayor, and constitutional referendums and polls. Unless a council resolves to engage the NSWEC by the prescribed deadline (30 November 2011 for the 2012 ordinary elections, and within 12 months after the 2012 ordinary elections for the 2016 ordinary elections and so on), the default position is that all elections, referendums and polls will be administered by the General Manager (section 296).

In this case the General Manager broadly assumes the same responsibilities as the NSWEC in elections conducted by it as specified in the Act and the Regulation.

General Manager's Responsibilities

If Council chooses to conduct the election the General Manager is charged with the responsibility of election manager under the Act.

While the Act permits the use of such commercial election providers the General Manager will still retain overall responsibility for the administration of the elections.

If the services of a commercial election provider are to be used the contract must specify a 'natural person' as the Returning Officer, not simply name the particular company. It is also necessary to ensure that the person engaged as either the Returning Officer or substitute Returning Officer is indemnified by the council or has sufficient professional indemnity insurance in the event that an election is challenged or declared void due to any irregularity in the way it was run.

Section 55 of the Act was amended to exempt councils from tendering if they were entering into a contract or arrangement for the NSWEC to administer the council's elections, referendums and polls. This exemption does not apply to contracts or arrangements with any other service provider.

As the amount involved in conducting council elections can be significant it is important to ensure that any commercial organisation is providing value for money. It is also important to ensure that as public funds are being expended principles of openness, transparency and accountability are not compromised.

Unless the cost of administering the elections is under \$150,000 or any of the other exemptions provided for in section 55 apply, the council will be required to go to tender or to conduct a selective tender. However given that the AEC is the only election services provider available Council may resolve under Section 55 (i) that because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, that a satisfactory result would not be achieved by inviting tenders.

If a council engages the NSWEC to administer its elections until the end of the 2012 ordinary election, expenses incurred by the NSWEC are to be met by the council (Schedule 8, clause 102(4)) and no tender is required.

To ensure that accountability is suitably addressed, the Act now provides for allegations of maladministration to be reviewed by the Division and, if warranted, a formal investigation under section 430 conducted. If this occurs, the expenses associated with the preparation of a report arising out of the administration of elections, referendums and polls by a council can be recovered by the Division from the council (section 434B).

MATERIAL RISKS AND ISSUES

If an election is conducted by any other than the NSWEC, the General Manager must assume all responsibility for its conduct. WSC will be responsible in the event that an election is challenged or declared void due to any irregularity in the way it was run. WSC will be responsible for resolving any complaints, including allegations of breaches of electoral requirements. Also, Council will be liable for any inaccuracies or errors or contested results.

If the NSWEC conducts the election, and it was necessary to re-conduct the election, it would be at NSWEC's cost.

If a Section 430 investigation is conducted by the Division of Local Government, WSC will be responsible for expenses associated with the preparation of the investigation and the report. (section 434B).

CONCLUSION

Recent legislative changes provide Council with the option to manage the 2012 Wyong Shire Local Government Election or engaging the NSWEC to provide those services on its behalf.

Only one private election services provider has indicated an interest in conducting these services. This provider is not sufficiently experienced in the NSW electoral environment or in an election of this scale.

Several risks are identified in WSC undertaking the electoral service itself.

Neither the NSWEC nor the contractor is in a position to provide a firm quote until all the variables have been determined. However indicative quotes indicate that a significant proportion of the costs are related to wages for electoral workers. The NSWEC has advised that it will operate its services on a cost recovery basis only (ie no profit) and that it has identified areas where it will work with WSC to reduce costs.

Council must resolve before 30 November 2011 to retain the Commissioner to administer its elections (other than elections of mayors and deputy mayors by councillors), constitutional referendums and polls until the conclusion of the 2012 ordinary election for councillors. Should Council not make a resolution before 30 November 2011, it will be deemed that the council elections are to be administered by the General Manager

Given the risks identified in WSC conducting the election alone and the lack of demonstrated experience of the proposed contractor and the legislative constraint to make a decision prior to November 30 2011, it is recommended that Council engage the NSWEC for the 2012 Election.

After this election it is likely that this contractor and perhaps others will have gained experience in the NSW local government arena by conducting elections for other Councils. Council may then compare the services of the NSWEC and any other proponents on a commercial basis for the 2016 election.

ATTACHMENTS

- | | | | |
|---|-------------------------------------------------------------------------|-----------|-----------|
| 1 | NSWEC Historical Involvement in Local Government Elections Attachment 1 | | D02817029 |
| 2 | Confidential Enclosure AEC previous experience in Election Events - | Enclosure | D02817027 |
| 3 | COMPARISON TABLE - ELECTION COSTS COMMERCIAL IN CONFIDENCE - | Enclosure | D02817036 |

Attachment 1**NSWEC Historical Involvement in Local Government Elections****1987**

The NSWEC, formerly the State Electoral Office (SEO), was first involved in the conduct of Local Government elections in 1987 following assent given to the Local Government (Elections Amendment Act 1987 which transferred responsibility for council elections from the (then) Town and Shire Clerks to the Electoral Commissioner.

These changes occurred to facilitate the consistency of interpretation and administration of electoral laws, greater uniformity with State election procedures; to utilise the expertise of the NSWEC and to raise the awareness in the community of the importance of Local Government elections.

1987-1991

The 1987 and 1991 elections were conducted using Town and Shire Clerks as Returning Officers but under the direction of the Electoral Commissioner.

1993

1993 saw introduction of the new Local Government Act. Town and shire Clerks became General Managers and were placed on contracts.

1995-2004

Independent Returning Officers were appointed by the SEO for the 1995 elections with elections conducted from council premises and utilising council resources to assist and support Returning Officers. Formal training of Returning Officers was minimal and undertaken with the assumption that Returning Officers would be supported by experienced council staff. The costs of some services provided were offset by the use of council resources including accommodation and staff, and were not always separately identified. Councils were charged only for actual goods and an administration fee. As a result the true cost of the elections was not clear for individual councils or NSW overall.

Legislation

Local Government elections in NSW are conducted in accordance with the provisions set out in the Local Government Act 1993 (the Act) and the Local Government (General) Regulations 2005 (the Regulation). Under the Act the NSW Electoral Commissioner is responsible for the conduct and administration of all NSW Local Government elections in an accountable, impartial and independent manner.

In mid 2008 amendments were made to the Regulation to modernise the arrangements for the conduct of Local Government elections in NSW. These reforms applied to the 2008 Local Government Elections.

Some of the key amendments to the Regulation included:

- The Electoral Commissioner rather than the council became responsible for election advertising
- Transfer of various advertising functions from councils and Returning officers to the Electoral Commissioner

- Allowing nomination proposals and withdrawals, certain applications and other materials to be facsimiled or emailed
- Changing the date for the close of nominations and time by which nominations are made by which nominations must be lodged or withdrawn
- Allowing silent electors to vote by post as well as allowing silent electors, pregnant electors or electors with disabilities to pre-poll vote
- Enabling pre-poll voting at mobile booths in remote Local Government areas requiring an elector to vote for at least half the number of candidates of the total number of vacancies
- Requiring certain information to be placed on the NSWEC's website
- Providing for ballot papers to be issued in Braille format.

Full Cost Recovery

All Local Government elections are conducted by the NSWEC on behalf of councils. In 2003/2004 the NSW Government decided that all elections, other than the State election, were to be funded by full cost recovery. The NSWEC is required by law to pay for the cost of running their elections. The NSWEC is not provided with funding from the NSW Government to cover costs associated with Local Government elections other than receiving an advance to cover expenses incurred until recoupment of costs from councils enables repayment of the advance.

The Local Government Elections on Saturday, 13 September 2008 saw for the first time full cost recovery applied across NSW.

4.2 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2011/01723 - D02804638

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Lisa Martin; Grants Officer

SUMMARY

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

RECOMMENDATION

That Council allocate an amount of \$3,665.00 from the 2011-12 Councillors' Community Improvement Grants as follows:

<i>1st Gwandalan Scout Group (\$1800) (\$1400 already allocated)</i>	<i>To assist with minor purchases to complete the fit out of our new hall. These purchases will include items for the kitchen being fridge and stove.</i>	<i>400</i>
<i>1st Tuggerah Lakes Scout Group (\$4500)</i>	<i>To purchase a safety boat for water activities.</i>	<i>1,000</i>
<i>Lions Club of Gwandalan Inc (\$165)</i>	<i>Request waiving of Council fees for the Annual Christmas Carols by the Lake.</i>	<i>165</i>
<i>The Entrance Amateur Swimming Club (\$2000)</i>	<i>To purchase a projector & screen, stopwatches & umbrellas.</i>	<i>1,550</i>
<i>Toowoona Bay Ocean Swim 2011 (\$500) (\$100 already allocated)</i>	<i>To purchase two shade gazebos and administration costs.</i>	<i>150</i>
<i>Toukley Adult Day Care (\$150)</i>	<i>Christmas Party and hamper distribution to each member.</i>	<i>150</i>
<i>Toukley Swimming Club Inc (\$3100) (\$2000 already allocated)</i>	<i>To purchase electronic timing equipment.</i>	<i>250</i>

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.

4.2 Proposed Councillors' Community Improvement Grants (contd)

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

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

THE PROPOSAL

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

OPTIONS

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

STRATEGIC LINKS

Annual Plan

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

Contribution of Proposal to the Principal Activity

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

Link to Shire Strategic Vision

<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.

Councillors' Community Improvement Grants 2011-12

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/07/2011 - 31/05/2012		11,250	11,250	11,250	11,250	11,250	11,250	11,250	11,250	11,250	11,250	112,500
Expenditure up to and including Ordinary Council Meeting of 12/10/11		4,060	4,800	3,285	3,342	1,650	4,590	2,957	2,235	2,300	3,997	33,216
Available allocation as at 12/10/11		7,190	6,450	7,965	7,908	9,600	6,660	8,293	9,015	8,950	7,253	79,284
Proposed Allocations for 9/11/11												
1st Gwandalan Scout Group (\$1800) (\$1400 already allocated)	To assist with minor purchases to complete the fit out of our new hall. These purchases will include items for the kitchen being fridge and stove.								400			400
1st Tuggerah Lakes Scout Group (\$4500)	To purchase a safety boat for water activities.				500						500	1,000
Lions Club of Gwandalan Inc (\$165)	Request waiving of Council fees for the Annual Christmas Carols by the Lake.	165										165
The Entrance Amateur Swimming Club (\$2000)	To purchase a projector & screen, stopwatches & umbrellas.	100	200	500	250					500		1,550
Toowoomb Bay Ocean Swim 2011 (\$500) (\$100 already allocated)	To purchase two shade gazebos and administration costs.				150							150
Toukley Adult Day Care (\$150)	Christmas Party and hamper distribution to each member.	75									75	150
Toukley Swimming Club Inc (\$3100) (\$2000 already allocated)	To purchase electronic timing equipment.	250										250
Total Proposed Allocations for 9/11/11		590	200	500	900	0	0	0	400	500	575	3,665
Total Accumulated Allocations as at 9/11/11		4,650	5,000	3,785	4,242	1,650	4,590	2,957	2,635	2,800	4,572	36,881
Balance Uncommitted as at 9/11/11		6,600	6,250	7,465	7,008	9,600	6,660	8,293	8,615	8,450	6,678	75,619

ATTACHMENTS

Nil.

4.3 Request for Funding - GOATS Family Festival 2011 - 2012

TRIM REFERENCE: F2005/01881 - D02805606

AUTHOR/MANAGER: Lesley Crawley; Manager Corporate Governance

SUMMARY

Reporting a request for funding under the Community Benefit Grants program for the Going off at the Swamp (GOATS) Family Festival 2011-2012.

RECOMMENDATION

- 1 That Council note the return of \$1,500 allocated to the San Remo Neighbourhood Centre under the Councillors Community Improvement Grant Programme.**
- 2 That Council consider the revised Community Benefit Grant Application from the San Remo Neighbourhood Centre for \$15,000.**

BACKGROUND

The GOATS Family Festival was first held in 1999 and has been conducted annually since that date. The event has now grown significantly. The organisers describe the event as the largest youth event in the shire, with over 10,000 people attending. GOATS was the winner of the Wyong Shire Council Australia Day Awards for the Event of the Year.

Council has provided funding toward the event in previous years as follows:

2007/2008	\$ 7,500
2008/2009	\$ 7,500
2009/2010	\$25,000
2010/2011	\$ 2,914

CURRENT STATUS

In June 2011 Council resolved to allocate \$1500 from the Councillors Community Improvement Grant (CCIG) Funds to the San Remo Neighbourhood Centre (SRNC) to assist with costs of promotional material for GOATS Family Festival 2012.

In July 2011 the SRNC submitted an application under the Community Benefit Grant (CBG) Programme for Caps and badges for GOATS Festival 2012. The application did not meet the grant guidelines as Council had already provided funding for the same project under the CCIG programme.

The SRNC has requested that it return the funding provided under the CCIG programme (\$1,500) and submit an amended CBG application for consideration. The CCIG funding was returned in October 2012.

THE PROPOSAL

It is proposed to consider the request for funding of the 2012 GOATS Festival under the CBG Program.

SNRC has requested an amount of \$15,000 and proposes that the funding will be used for the following items to support the event:

ITEM	COST
Stages, sound and technicians x 3	\$ 8,250
Community Tents x 35	\$ 2,700
Security	\$ 2,200
Animal Farm	\$ 1,000
Promotional Materials/Flyers	\$ 850
TOTAL	\$15,000

A representative of the SNRC has requested permission to address the Council.

OPTIONS

Council may:

1. Provide the requested funding of \$15,000 or another amount.
2. Decline the application.

STRATEGIC LINKS

Wyong Shire Council Strategic/ Annual Plan

The Community Benefit Grants program exists to provide financial assistance to individuals, non-profit organisations and groups by providing small grants to projects that will contribute to meeting objectives and targets identified in Council's Annual and Community Plan and will demonstrably improve the social, economic and/or environmental wellbeing of the Wyong Shire community.

The CBG 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

Long term Financial Strategy

Nil

Asset Management Strategy

Nil

Workforce Management Strategy

Nil

Link to Community Strategic Plan (2030)

Nil

Budget Impact

The budget for the 2011-12 CBG programme is \$124,000. The July round of allocations reduced the budget by \$26,411.

Available for allocation from the programme is \$97,589 notwithstanding there are two further funding rounds to occur in 2011-2012.

Expenditure is approved until the end of the 2011-12 financial year. Unspent approvals lapse 30 June 2012.

CONSULTATION

Nil

GOVERNANCE AND POLICY IMPLICATIONS

The SRNC has returned the funding received under the CCIG programme. The revised CBG application now meets the assessment criteria of the CBG Guidelines.

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

MATERIAL RISKS AND ISSUES

Nil

CONCLUSION

The original CBG application for the GOATS festival did not meet the CBG assessment criteria as funding for the same project had already been granted by WSC.

The applicant has returned that funding and has requested Council's consideration of an amended CBG application.

The application meets the criteria set out in the CBG guidelines.

ATTACHMENTS

- 1 GOATS CBG Amended Application 2011 D02815918



San Remo Neighbourhood Centre Inc.

28 Brava Avenue Nth, San Remo 2262

President: J. LENTON
Secretary: M. THIRLWALL
Treasurer: R. TERRELL

Telephone: (02) 43 90 7888
Fax: (02) 43 99 2398
Email: jillian@sanremo.org.au

Lesley Crawley
 Wyong Shire Council
 PO Box 20
 Wyong 2259

Dear Lesley

Thank you for supporting the GOATS Family Festival. Following from the meeting regarding sustainable funding for this event, I am writing to amend the CBG application. We are requesting \$15,000 for the items outlined below. Figures from the 2011 audit show that last year we spent \$19,437.45. This did not include promotional material as we recycled many items such as trophies and core flutes. I have pulled out the main expenditure items for consideration below.

BACKGROUND

GOATS started in 1999 with 2 bands on the back of a truck in response to requests for a safe place for young people to showcase their talents. Today, GOATS has grown significantly into a sea of colour and diverse talents from those as young as 5 singing and dancing, to the modern sounds of hard core metal. Many young people have furthered their careers in the music and arts industry including big name band 'Short Stack' and more recently our youngest performer Jacinta Burley has auditioned for the new Johnny Young Talent Show. From small beginnings, children and young people are supported, encouraged and introduced to pathways that create employment. The sustainability of GOATS is within the event itself. After 13 years of success, the strengths of the event include the capacity of our organisation to connect community and young people and the dedication of a team of highly skilled volunteers. The event is the largest youth event in the Shire. With well over 10,000 people attending, it is the only event at this magnitude that boasts a drug and alcohol free environment for everyone. It is safe and extremely well organised. GOATS was the winner of the Wyong Shire Council Australia Day Awards for the Event of the Year.

FUNDING

Funding will be used for the following items to support the event:

ITEM	COST
Stages, sound and technicians x 3	\$8250
Community Tents x 35	\$2700
Security	\$2200
Animal Farm	\$1000
Promotional Materials/Flyers	\$850
TOTAL	\$15,000

Other expenses include:

ITEM	COST
Trophies	\$1200
Core Flutes	\$700
Insurance	\$600
Stage Banners and Balloons	\$350
Banners	\$900
Aboriginal Welcoming	\$300
Administration-photocopying etc.& general resources	\$500
St John's	\$150
SES	\$250
TOTAL	\$7450

I hope this meets with your approval and I look forward to hearing from you.

Yours sincerely



Jillian Hogan
SERVICES MANAGER
14 OCTOBER 2011

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

TRIM REFERENCE: F2011/01716 - D02806053

AUTHOR/MANAGER : David Ryan; Manager Estuary Management

SUMMARY

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

RECOMMENDATION

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

- ***Lot 42 DP 75524, 26 Platypus Creek Lane, Palm Grove***
- ***Lot 43 DP 755224, 21 Platypus Creek Lane, Palm Grove***
- ***Lot 1 DP 774021, 153 – 175 Hakone Road, Woongarra***

BACKGROUND

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

In 2008, consultant engineers, Cardno Lawson Treloar undertook an assessment of Wyong River and Ourimbah Creek to identify areas of streambank degradation and to prioritise areas for rehabilitation. That assessment is documented in the Streambank Management Plans for Wyong River and Ourimbah Creek. A number of the sites identified within these plans are located on private property. The prioritisation of sites within these plans forms the basis for funding under the Federal grant.

This report identifies three (3) private properties that have been prioritised for improvement works under the EMP implementation. Council's approval is required for the expenditure of the CFoC funds on private property.

PROPOSAL**Works on Private Property**

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

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

Where it is proposed to undertake works on private property, an agreement is entered into with the property owner relating to the sharing of costs. Agreements are based on the following principles:

- Council, through CFoC funding, will provide all rehabilitation works.
- Council, through CFoC funding, will provide initial maintenance (up to 12 months) to establish tube stock planted as part of the works.
- If, as a result of the rehabilitation works, off-stream stock watering is required, this is to be provided by the land owner at his/her cost.
- The property owner will provide for the ongoing maintenance of any fencing and maintenance of revegetated areas after the initial maintenance period, including removal of reoccurring Weeds of National Significance (WoNS) and other environmental weeds for a minimum of five (5) years.
- On properties where the removal of aquatic weed occurs, the follow up maintenance programs will also be provided by the property owner for a minimum of five (5) years.

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

Causes of Erosion and Rehabilitation Methods

The 2008 report prepared by Cardno Lawson Treloar, Consultant Engineers identified areas of significant erosion within Wyong River and Ourimbah Creek. The large amounts of sediment that erode from these stream banks are a result of excessive clearing of trees close to the streambank, uncontrolled stock access to the stream, intrusion of weeds such as privet and lantana (that do not have root systems capable of holding the soil in flood events) and gradual erosion resulting in over-steepening of the bank, which has the potential for significant slippage when saturated.

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

The typical rehabilitation methods detailed within the report, and which form the basis for works to be carried out at individual sites, include:

- Excavation of the streambank to provide a batter that will support revegetation.
- Revegetation of the riparian zone to further stabilise the bank.
- Fencing to prevent stock access to the stream and revegetated areas.
- Clearing of weeds/undesirable vegetation.
- The provision of toe protection to eroding streambanks. This is achieved by either hard engineering works such as the placement of sandstone rock work/construction of retaining walls or softer works such as the placement of local materials (eg. tree trunks). This serves to protect the eroding bank until such time as native vegetation is re established.

The Streambank Management Plans independently prepared for Council, investigate every section of all waterways that eventually end up in the Tuggerah Lakes system. These plans prioritise all 'hotspots' for potential sediment and nutrient input into each creek or river, irrespective of the ownership of the adjacent land. These works are designed to achieve important environmental outcomes by greatly reducing the amount of sediment/nutrient entering the waterways, eventually clogging river/creek mouths and the Tuggerah Lakes. That is, the works are designed to treat the long term cause rather than simply treating the resultant effect using methods such as the continual dredging of river mouths and the lakes, which is a highly unsustainable practice.

OPTIONS

Not all property owners consider that these works will benefit them directly. Concerns raised include fencing off stock from the river resulting in owners having to install off-stream watering. In addition, revegetation of streambanks which are fenced to prevent stock access to new plants may be viewed as a loss of pasture. Similarly, battering of the streambank to be revegetated and fenced is also seen as a loss of pasture.

While it may be considered that the works outlined above provide long term assets such as fences and riparian vegetation for the properties concerned, many owners have indicated that they will not consent to the works being undertaken if they are required to make any significant monetary contribution. Therefore there are no viable alternative options if Council is to pursue the desired environmental and water quality outcomes for the Tuggerah Lakes.

PROPOSED WORKS

As part of the ongoing works for the 2011/12 works program for the EMP it is proposed to undertake construction work on three (3) properties as detailed in Table A. These works will provide significant environmental benefits by stabilising and controlling areas identified as having high erosion risk, and providing appropriate revegetation and fencing to assist in the long term sustainability of these works.

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

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

Property Description	Extent of Proposed Work	Approximate Cost of Work (excl GST)
Lot 42 DP 75524, 26 Platypus Creek Lane, Palm Grove	Weeds of National Significance (WoNs) removal including lantana from 1200sqm of bank 870sqm of supplementary planting, stabilisation using soft engineering approaches including ecologs or woody debris to toe secured by piling, jute mesh, and brushing and planting, earth works and hard engineering to create rock cascade, to stabilise 120m of streambank. Install additional 30m of fencing to exclude stock.	\$154,007
Lot 43 DP 755224, 21 Platypus Creek Lane Palm Gove	Rock erosion groynes and supplementary planting.	\$15,000
Lot 1 DP 774021, 153 – 175 Hakone Road, Woongarah	Bank battering and installation of rock plunge pool, rip rap and rock toe protection to protect ephemeral stream from culvert crossing, weed removal supplementary planting to 500sqm to protect 100m of streambank	\$147,500

STRATEGIC LINKS

Annual Plan

Principal Activity	Strategy or Program	Financial Line Item No and Description
A More Sustainable Community	By completing these works, the rural community will have a better knowledge and understanding of the benefits of environmental management.	
A More Sustainable Economy	Not applicable	
A More Sustainable Environment	Implementation of Tuggerah Lakes Estuary Management Plan.	3.2.8
Infrastructure	Not applicable	
Organisation	Not applicable	

Contribution of Proposal to the Principal Activity

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

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

Link to Shire Strategic Vision

Priority Objective	How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan
Communities - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Community awareness of these types of initiatives should foster a sense of belonging and pride and enable the community to recognise it's contribution to protection of the environment.
Facilities and Services - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	The landholders within the Shire's water catchment areas will see this environmental project as an example of land use best practice.
Education - The community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life.	In accordance with the EMP works, the community education programs will describe the benefits these works will have for the environment.
Employment - There will be a strong and sustainable business sector and increased local employment built on the Central Coast's business strengths.	Temporary bush regeneration employees will be working on these projects.
Natural Areas - Areas of natural value in public and private ownership will be enhanced and retained to a high level in the context of ongoing development.	The health of the Shire's waterways will be enhanced by the restoration of degenerated streams and the education of landholders.
Environmental Programs - There will be a sense of community ownership of the natural environment through direct public involvement with environmental programs.	As part of the EMP, implementation of these projects will contribute to the community's ownership and understanding of the importance of the Shire's waterways.

Financial Implications

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

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

Principles of Sustainability

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

CONSULTATION

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

GOVERNANCE

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

CORPORATE RISKS

Risk	Possible Outcome	Mitigation Method
Risk of non-compliance with Section 67 of Local Government Act	Loss of Council reputation. Penalties from non-compliance	Obtain Council approval prior to expenditure of funds
Fraud and corruption allegations from favouring certain land-owners	Loss of Council reputation. Investigations into Council practices and possible penalties	Works identified in independently prepared Streambank Management Plan on behalf of Council for determining priority sites. Obtain Council approval prior to expenditure of funds

CONCLUSION

It is proposed to undertake the described rehabilitation works on private property to achieve the objectives of the EMP utilising funding through the Federal Government's CFoC grant. The works listed in Table A (above) are scheduled for completion in the 2011/12 financial year as part of the EMP. Council approval is therefore recommended for the undertaking of these works on private property at no direct cost to the property owner.

ATTACHMENTS

Nil.

4.5 Warnervale Town Centre August/September 2011 Progress Report

TRIM REFERENCE: F2004/00535-08 - D02813199

AUTHOR/ MANAGER: Danielle Dickson; Manager Major Projects

SUMMARY

The Council has requested a monthly update on the progress of the Warnervale Town Centre project. This report shows the current status of the Warnervale Town Centre project for the month of August and September 2011.

RECOMMENDATION

- 1 That Council receive the report on Warnervale Town Centre August/September 2011 Progress Report.**
- 2 That Council endorse the Warnervale Town Centre Biodiversity Certification Assessment report**
- 3 That Council formally request the Office of Environment and Heritage to Biocertify the Warnervale Town Centre and authorise the General Manager to sign any relevant documentation required to support the application.**
- 4 That Council exhibit the Biodiversity Certification Application for 28 days upon acceptance of the report by the Office of Environment and Heritage.**
- 5 That Council refer to the Office of Environment and Heritage requesting the endorsement of the Minister for the Environment, subject to no significant objections being received the Warnervale Town Centre Biodiversity Certification proposal.**

KEY PROGRESS ITEMS

Lower Hunter Spotted Gum Iron Bark Forest EEC Community

As advised in the Councillor Business Update on 4 October 2011 Council has been formally advised by the Office of Environment and Heritage that:
(Extract from attached letter)

In response to your letter and our subsequent meeting, I asked the Director – North East Branch, Mr Gary Davey, to arrange for a review of the information at hand regarding the endangered ecological community. This review would enable the Office of Environment and Heritage (OEH) to form an opinion on the presence or otherwise of the endangered ecological community within the proposed certification areas.

The review was undertaken by an experienced ecologist from OEH. Based on this review, OEH has accepted that Lower Hunter Spotted Gum Ironbark Forest Endangered Ecological Community is not present within the proposed certification areas. This review has again highlighted the complexity of vegetation communities within the NSW landscape and thus the intricacy of scientific determinations under the *Threatened Species Conservation Act 1995*. I trust this decision will enable Council to progress its biodiversity certification proposals for the Warnervale Town Centre and Wyong Employment Zone.

Council should also be able to progress other planned developments that may be envisaged through the draft North Wyong Shire Structure Plan, based on the assessment approach previously adopted for the certification areas.

As this issue is now clarified Council is finalised a draft Biocertification report for the Warnervale Town Centre which is currently being reviewed by OEH. Once OEH has confirmed that the report is suitable for public exhibition and application materials are finalised for lodgement by Council with OEH. Council will publicly exhibit the proposal for 28 days for community feedback before formally requesting the Minister for the Environment to endorse Council's Biodiversity Certification Application.

The advantage of bio certification is that it identifies areas of high conservation value at a master plan scale, and protects them, as well as identifying areas suitable for development. After biodiversity certification is conferred on an area, development may proceed without the usual requirement under the Environmental Planning and Assessment Act 1979 for site-by-site threatened species assessments. This process sometimes involves the risk of Species Impact Statements being required and OEH concurrence for some approvals where significant impacts on threatened species and EECs occur. The successful achievement of biodiversity certification will result in less development uncertainty and will boost investor confidence in major development sites, such as the Warnervale Town Centre. A similar process is also being worked through on the Wyong Employment Zone.

Council is requested to endorse the Warnervale Town Centre Biodiversity Certification Report. However, it needs to be acknowledged that minor changes are likely to be made to the document to address any requirements that OEH might have prior to public exhibition.

Sparks Road Intersection Funding

At short notice Council staff were invited by Darren Webber MP to and RTA briefing of Duncan Gay MP, Minister for Roads and Ports on the 25 October. The discussion included consideration of the issues surrounding the funding of the Sparks Rd intersection for the Warnervale Town Centre. Following this briefing the Ministers office released a media brief which included a commitment from the Minister for \$260,000 to be allocated this financial year to the detailing planning of the intersection. The media release also contained the following commitment to the future funding of the works:

"It's proposed the designing plan will take six months after which a submission will be made for the intersection to be fully funded, once the cost is known."

4.5 Warnervale Town Centre August/September 2011 Progress Report (contd)

Council welcomes the funding for the detailed design of the Sparks rd intersection which will allow a more detailed cost estimate to be prepared. A further meeting is to be held with the parties to discuss Councils concerns that the RTA should be the lead agency in procuring the detailed design of the intersection, not Council.

In the coming month Council will apply for part funding for the intersection as well as other infrastructure in the town centre through the Regional funding programs: Building Better Regional Cities; and the second round of the Regional Development Australia Fund.

Council Resolution: Warnervale Town Centre Viability

The Department of Planning have progressed the amended Development Control Plan to a position where this resolution can now be addressed. Council has engaged JBA Consultants to complete a report that will compare the development feasibility for all forms of development and infrastructure under the existing and revised planning framework. The study will provide Council with a clear assessment of the burdens, risks and benefits of development under the existing planning framework and master plan and the revised DCP and master plan. It will include comparative analysis and will provide a clear independent conclusion of the outcome for Council under both Master plans.

A draft report is expected to be presented to Council prior to the end of this calendar year.

Draft Development Control Plan Progress

Council has received confirmation from the Department of Planning and Infrastructure that the amended road layout, zonings and other changes proposed by Council to the existing DCP are accepted and are being incorporated into the amended instrument. This work is being completed on behalf of the DoPI by Hassall Pty Ltd. This is expected to be finalised prior to the end of this calendar year but is outside Councils direct control.

Council has requested that the control of any future amendments to the DCP being returned to Council at the conclusion of this amendment.

Development Application by Fabcot Pty Ltd for Retail Stage 1

In response to the DoPI's exhibition of the above Part 3A application Council has reviewed the application as an adjoining land owner and as a statutory planning authority.

Council staff have also met with representatives of DoPI to discuss in more detail the issues that our letters raise.

Copies of Councils submissions are attached to this update report.

CURRENT STATUS

Deliverable Status

	Scheduled Start	Scheduled Completion	% Work Complete
Milestone 1: DCP Amendments			
Amended Draft DCP being managed by the DoPI, expected to be on exhibition at the end of 2011. Councils work is complete. The feasibility of these amendments are being tested by JBA to ensure they are improving the viability, this report is also due at the end of 2011.	February 2010	Dec 2011	80%
Milestone 2: Entry Road;			
Negotiating Deed of Agreements and budgets with adjoining landowners. This action is overdue as negotiation with the parties has been protracted.	January 2011	May 2011	60%
Milestone 3: Biocertification			
Clarification of the status of the LHSGIF	July 2011	September 2012	100%
Lodgement of the Biocertification application	November 2011	March 2012	10%
Milestone 4: Sparks Rd Intersection			
Council continuing ongoing dialogue with RTA requesting actual extent of intersection scope and cost.	March 2011	On going	
Procurement of Detailed design	Lead party to be determined		
Detailed design and costing (timeframe likely six months)	Subject to tender program		
Milestone 5: Railway Station			
Railcorp finalizing Plan of management	May 2011	Dependant on others	
Railcorp is preparing a response to outstanding issues such as stormwater management, non compliance with the DCP and integration with services on site for submission to council together revised Statement of Environmental Effects. Awaiting lodgement under the current DA. WSC to determine DA	April 2011	June 2011	outstanding
Dependant on others			
Milestone 6: S94 Contribution Plan			
Contribution Plan is continually updated with changing amendments to the DCP. The following tasks are dependant on the DoP.			
Adjust Contribution Plan upon	April to May 2011	August 2011	90%

Deliverable Status

	Scheduled Start	Scheduled Completion	% Work Complete
1. receipt of asset managers confirmation of infrastructure costing , 2. deletions of infrastructure items and 3. additional revenue from DCP amendments			
Briefing of Council seeking approval to exhibit.	Sept	Oct	Awaiting DoPI to finalise and issue DCP
Forward to DoP seeking approval to exhibit	Oct	Nov	
Exhibit plan for public comment.	Oct	Nov	
Report to Council on results of exhibition.	Nov	Dec	
Notify Department of Planning of adoption of the plan.	Dec	Dec	
New Ministerial Direction given.	Dec	Jan 12	
Contributions Plan comes into force.	Jan 12	Jan 12 end	

Stakeholder Liaison

PSG Meetings continue on a monthly basis.

An update letter was provided to the Warnervale Wattanobbi Precinct on 13 October 2011.

The next Warnervale Update newsletter from the parties involved in the town centre development is proposed for December 2011.

ATTACHMENTS

1	Report from OEH Results of Lower Hunter Spotted Gum Ironbark Review		D02814826
2	Warnervale Town Centre - Application 10_0195 - Proponent Fabcot Pty Ltd		D02823879
3	Wyong Shire Council submission in relation to Proposed Woolworths Retail Development, Warnervale Town Centre MP_08_0113		D02823891
4	Biodiversity Certification Assessment Report_WTC_Final	Enclosure	D02816874



Office of
Environment
& Heritage

Our reference: DOC11/40213
Contact: Diane Crosdale
4908 6823

Mr Michael Whittaker
General Manager
Wyong Shire Council
PO Box 20
WYONG NSW 2259

30 SEP 2011

Dear Mr Whittaker

Thank you for your letter, dated 30 August 2011, concerning the presence or otherwise of the Lower Hunter Spotted Gum Ironbark Forest Endangered Ecological Community in the Wyong Local Government Area. I appreciated the opportunity to meet with you, Councillor Doug Eaton and Council staff to discuss this matter.

I have noted Council's concerns regarding employment growth and affordable housing and I am pleased that you have brought these matters to my attention. It was also useful to discuss Council's plans for biodiversity certification of the Warnervale Town Centre and Wyong Employment Zone.

In response to your letter and our subsequent meeting, I asked the Director – North East Branch, Mr Gary Davey, to arrange for a review of the information at hand regarding the endangered ecological community. This review would enable the Office of Environment and Heritage (OEH) to form an opinion on the presence or otherwise of the endangered ecological community within the proposed certification areas.

The review was undertaken by an experienced ecologist from OEH. Based on this review, OEH has accepted that Lower Hunter Spotted Gum Ironbark Forest Endangered Ecological Community is not present within the proposed certification areas. This review has again highlighted the complexity of vegetation communities within the NSW landscape and thus the intricacy of scientific determinations under the *Threatened Species Conservation Act 1995*. I trust this decision will enable Council to progress its biodiversity certification proposals for the Warnervale Town Centre and Wyong Employment Zone.

Council should also be able to progress other planned developments that may be envisaged through the draft North Wyong Shire Structure Plan, based on the assessment approach previously adopted for the certification areas.

If you have any queries regarding this matter please do not hesitate to contact me or have your officers contact Ms Diane Crosdale, Manager – Planning and Aboriginal Heritage, North East, on 4908 6823.

Yours sincerely

A handwritten signature in black ink that reads 'Lisa Corbyn'.

LISA CORBYN
Chief Executive

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4 October 2011

NSW Department of Planning
Director General
Mr Sam Haddad
GPO Box 39, Sydney
NSW 2001

Attention; The Assessing Officer, Mr David McNarmara

Dear Sir

Warnervale Town Centre Precinct Major Project Application 10_0195. Proponent Fabcot Pty Ltd.

As a landholder of multiple land holdings in the Warnervale Town Centre, Warnervale NSW, Wyong Shire Council has been notified by the NSW Department of Planning and Infrastructure that a proposed development application lodged on behalf of Fabcot Pty Ltd (Fabcot) being the Proponent for a Major Project Application No. 10_0195 (Project Application).

The Proponent is seeking approval for a project application for a mixed use development (retail with ancillary commercial, bulky goods and leisure components) within the Warnervale Town Centre (WTC), comprising of the construction of buildings for the purposes of a Woolworths supermarket and Big W discount department store, a new main street and civic square with provision of 1,380 car parking spaces, loading dock facilities and associated physical infrastructure (on and off site) including new access roads, intersections, communications, energy, water supply and sewerage.

Public exhibition for the project application commenced on the Thirty First day of August 2011 and remains on public exhibition until close of business the Fourth day of October 2011 in which time members of the community, as part of the community consultative process are able to informed comment. Wyong Shire Council (Council) in this instance responds to the Project Application as a landholder of Lot 1DP 376264, Lot 54 DP 7527, Lot 55 DP. Lot 4 DP 7738, Lot 51 DP 561032, Lot 52 DP 561032 and Lot 1 DP 375712.

Overview

The Proponent prepares the Project Application as a State Significant Site (SSS) with the gazettal of an amendment to the *State Environmental Planning Policy (Major Developments) 2005 (Major Development SEPP)* by inclusion of Part 16 "Warnervale Town Centre" in Schedule 3. At the same time as the land was declared a SSS with the gazettal of an amendment to the *Major Development SEPP*, so the Warnervale Town Centre Development Control Plan 2008 (WTCDCP) became operational.



Warnervale Town Centre
Major Project Application 10_0195
Proponent Fabcot Pty Ltd
Page 1 of 4

The Proponent is the owner of all land in Lot 521 in DP 594725 located at the corner on Nikko Rd and Hakone Road, Warnervale (the subject site). The subject site is land locked to the east by all land in Lot 1 DP 376264 owned by Council. Council has not given consent to the Proponent to access their land across Council land. The subject site is also land locked to the south by all land in Lot 1 DP 700096 owned by Landcom. The Proponent's landholdings along with Council, Landcom and other landholdings contribute to the overall Warnervale Town Centre masterplan.

As this long awaited development is anticipated by the north Wyong community, the successful outcome of the town centre relies on unilateral coordination of the development of lands between all landholders. The landholders must be respectively cognisant of the impact of developments on individual lands and of adversary effects upon adjacent lands.

Amenity Impacts on Adjoining Land

Potential impacts of the Project Application have been investigated against adjoining lands. Council makes particular reference to the relationship to the proposed "platform" level of the Project Application having adopted a "Reduced Level" (RL) of RL 44.00 against adjoining Council's neighbouring lands which are predominately proposed for the purpose of community neighbourhood parks as described in the WTCDCP.

Based on the Project Application platform RL 44.00 and other reduced levels indicated in the WTCDCP (figure 3.15) for roads, establishes a difference of levels between the Project Application being predominately the town centre and the community park of in excess of 10 metres. The interface relationship between the town centre retail precinct and community park is of paramount importance of the success of the entire development, town centre and community parks and community facilities.

These onerous differences in levels make accessibility to the park and community facilities for public patronage extremely difficult and almost inaccessible to the persons with disabilities and immobility difficulties. To overcome the access problems requires steep, winding pathways and expensive mechanical lifts to satisfy the Disability Discrimination Act (DDA) The current design commits council to additional and unnecessary financial burdens required for the construction of expensive and unsightly retaining walls, paths, stair area as well as reducing a reduction of usable park space.

Council must point out, this height differential is not a result of poor design on behalf of the Proponent, but more so as a legacy of WTCDCP and existing topography and geographical constraints. Over the past six months, the Proponent, adjoining landowners and Department of Planning & Infrastructure (DoPI) has been working collaboratively and successfully in overcoming these and other issues arising from the current WTCDCP.

As a result of successful workshops and continued design collaboration, a revised master plan for the development has evolved in which subsequently decreases the height differential between the town centre and community parks and facilities. The revised master plan also considerably reduces roads, frees up lands creating effective developable land parcels connecting currently disconnected park lands. A copy of the revised master plan accompanies this letter indicating the revised road layout superimposed over the current WTC DCP. Council requests that these revised road levels are implemented to improve the functionality of the town centre and interrelated community facilities.



Visual Impacts

Council acknowledges the Proponent has included a Southern Site North Elevation, Southern Site South Elevation and 2 sectional drawing Section A and B. Neither the elevation or sectional drawings indicates the location of the eastern elevation being the Big W external wall from the boundary between the adjoining allotment Lot 1 DP 376264. An offset dimension be indicated on either a plan or elevation to define the relationship of the wall to the boundary.

In further reference to the above mentioned wall, Council has concerns of the length and height of the Big W eastern wall in regards to size, bulk and visual impact from the park and adjoining lands. The Project Application does not indicate the finished height of the wall. However, by adopting the RL's indicated on the Elevation drawings the finished height will be well over 12 meters from ground level, indicated on Southern Site South Elevation. In order to reduce over bearing visual of the subject wall, particularly being in the view corridor of the community Hill Top Park, the Proponent addresses some form of wall articulation.

Given the Proponent takes into consideration the suggestion of wall articulation, attention should also be given to reduce or eliminate the temptation of the subject wall from becoming a canvas for graffiti artists, in which would be detrimental on the visual impact from the adjacent community parklands.

Social Impacts

In reference to the Duane Location IQ report, titled Updated Big W, Woolworths and Dan Murphy's Assessment, figure 1. Council raises concerns to the proposed location of the Tavern in the town centre, being directly opposite Hill Top Park and community facilities such as Knowledge Centre, Day Care Centres and Cultural areas.

The purpose of Hill Top Park is to encourage a place for community gathering and participation, community and cultural events and promote health and well being.

Given the proposed location to the park, concerns are raised in regards to anti-social behaviour such as vagrancy, vandalism, theft and other anti-social behaviour. The Tavern is also located in an area which will not be convenient to public transport.

In reference to Duane Location IQ report Figure 1. should the Tavern be relocated on the proposed Dan Murphy's site, given the natural topography ascending from the Dan Murphy site to the Hill Top Park would be a deterrent to undesirable and anti-social behaviour in the park .

With the Tavern located on the Dan Murphy site, would place patrons closer to the public bus interchange, taxi ranks and the proposed railway station. Council recommends the relocation of the proposed establishments to the alternative sites.

Retail Built Form

The built form must be constructed in a manner so as no portion of the built form, inclusive of fixtures, fittings, footing or subsurface construction encroaches on the adjoining lands or impedes in any manner or burden future development on adjoining lands.



All works for the provision of providing services to the built form must be constructed in a manner so as encroaches on the adjoining lands or impedes in any manner or burden future development on adjoining lands.

Construction Zone

The construction zone must be clearly determined with the perimeter of the construction zone separated from adjoining lands by virtue of a construction fence in accordance with WorkCover. All excavation, construction works, storage of construction materials, parking of construction and construction employees vehicles must remain to the confines of the construction zone.

Public roads

As a landholder, Council requires the dedication of all public roads to Council for the purpose statutory rights of passage conferred the *Roads Act* to enable the public rights to walk, ride, drive and access all parts of the overall development

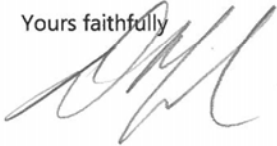
Conclusion

As a landholder, in principle Council is in favour of the Project Application subject to amendment to the visual impact of the eastern wall of Big W and the relocation of the proposed Tavern.

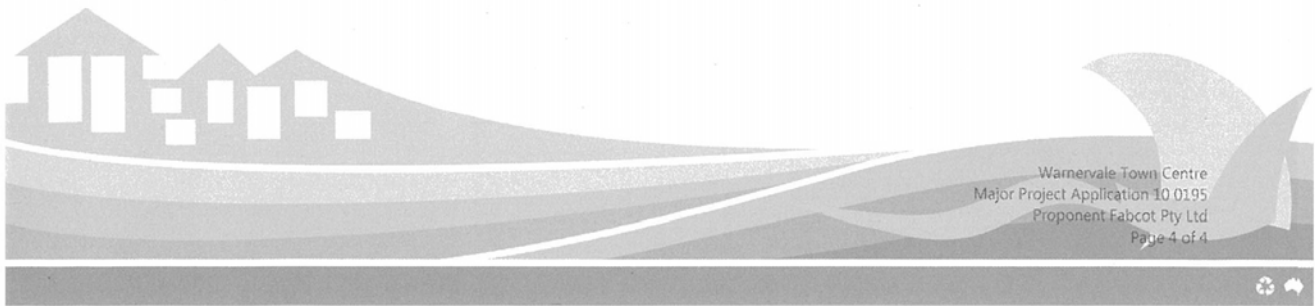
The greater concerns relate to the overall development guidelines being the WTCDP. Landholders and government agencies have previously raised concerns regarding fundamental issues of the current WTCDP in particular to building density targets in which the Proponent's Project Application makes direct reference to, *1.5 Variations Requested to the WTCDP- Residential Densities*.

Landholders will be continuing to pursue a revised master plan contributes significant benefits to all stakeholders in the project. Should you require further discussion regarding this matter, please do not hesitate to contact the undersign.

Yours faithfully

Per 

Danielle Dickson
Manager – Major Projects
Wyang Shire Council





EKG/Emily Goodworth
F2010/01347
Your Ref: MP 08_0113

21 October 2011

Mr Michael File
The Director- Strategic Assessment
Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Mr File

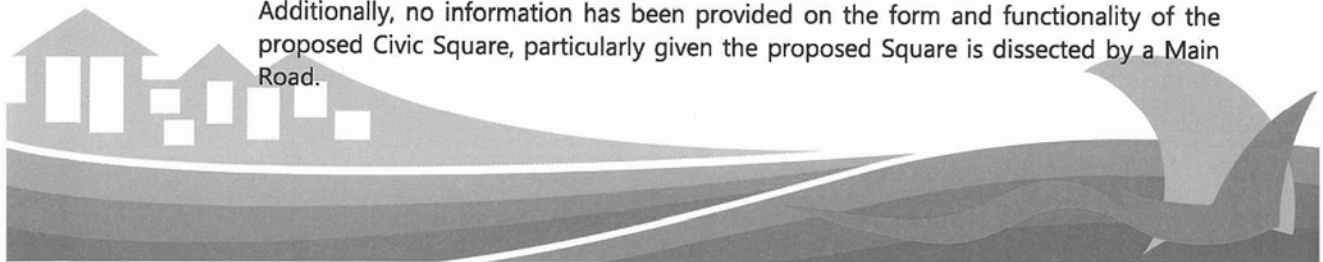
**COMMENTS FOR PART 3A APPLICATION-PROPOSED WOOLWORTHS RETAIL
DEVELOPMENT FOR WARNERVALE TOWN CENTRE, LOT 521 IN DP 594725, 262
HAKONE ROAD WARNERVALE, APPLICATION NUMBER MP 10_0195**

Thank you for your letter dated 26 August 2011. Council has reviewed the Environmental Assessment (EA) for the proposed development of the Woolworths Retail Development. You are advised that Council's assessment of the proposal has been undertaken in consideration of the currently adopted Development Control Plan for the Warnervale Town Centre. Following consideration of the proposal under the relevant controls the following comments are provided for your consideration:

- 1 Despite the fact that Clause 2.6 of WTCDPC 2008 requires a proponent to demonstrate that the density targets shown in Figure 2.12, in this case, a total of 1,100 apartments for the whole of Precinct 6, will be achieved at subdivision stage, it is considered imperative that the application provides detail on how the rest of Precinct 6 will achieve the targets, given the proposed development does not provide for any mixed use multi unit-housing.

The purpose of these targets, as outlined in one of the key objectives in this section of is to ensure the "residential density targets identified in the NSW Government's Metropolitan Development Program...are achieved". The statement in the EA relies upon other development and land owners to provide the required housing targets.

- 2 The minimum area required for a Civic Square, outlined in WTCDPC, is 2700m². Whilst a variation to the area of the Civic Square is proposed, the discussion in the EA does not state the actual extent of variation proposed nor does it give adequate justification as to why the proposed development cannot comply with the WTCDPC requirements. Additionally, no information has been provided on the form and functionality of the proposed Civic Square, particularly given the proposed Square is dissected by a Main Road.



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Warnervale Town Centre**

Council has undertaken a calculation of the proposed Civic Square, calculating an area of approximately 1584m². This is a variation of 41% to the minimum requirement under the WTCDP which is considered to be a significant departure when applying to a new development on vacant land.

The design of the proposed Civic Square is also contrary to those requirements outlined within the Director-General's Requirements, that is, "the civic square is required to be a total of 2,700m² designed as fully accessible public space not a public roadway or fully enclosed as part of the shopping centre..."

- 3 A youth space (a minimum of 1,000m²) is required to be provided on the northern side of Main Street as per the requirements of the WTCDP. This space should be designated on the plans.

The facility should be located within the Main Street and should be within full view of people using the town centre and in close proximity to passive and active recreation opportunities, public transport services, youth oriented retail areas and food outlets.
- 4 Insufficient information has been provided both in the EA and on the plans as to the proposed staging of the development. It is imperative that the correct number of carparking spaces is provided for the development within each stage. Pedestrian, traffic and transport arrangements should be considered in any staging of the development.
- 5 The information provided by the applicant does not adequately demonstrate how the proposed buildings meet sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, energy and water efficiency.
- 6 No justification has been provided as to why a library has not been incorporated into the design of the development as per Clause 4.4 and Figure 4.5 of WTCDP 2008. A key objective for the WTC is the provision of a range of community facilities including a library, in a location that is accessible to residential areas and public transport. In addition, Table 3 requires the Civic Square to cater for a variety of civic activities with a requirement to activate the square with various community uses including the library.
- 7 No landscaping details have been provided as per the Director-General Requirements.
- 8 The EA makes reference to the provision of a Service Station as part of the proposal. The location of the Service Station has not been specified, nor is its location identified on the plans. Details should be provided if the proponent is seeking consent for the service station as part of the project application approval.
- 9 Consideration of the aims and objectives for Planning for Bushfire Protection 2006, particularly given the subject site is surrounded by vegetation and, in the interim, will be isolated with little to no surrounding development.

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- 10 Under Clause 271B of the Environmental Planning and Assessment Regulation 2000 a development application in relation to all or part of the Warnervale Town Centre State Significant Site (the subject site included) must not be determined by the consent authority unless a contributions plan under Section 94E of the Act has been approved for that State Significant Site. No Contributions Plan has been approved to date and no transitional arrangements have been included into the legislation. A draft plan is not anticipated to be adopted until late 2011/early 2012.

In the absence of a formally adopted Section 94E Contributions Plan for the site, it will be necessary for the proponent to enter into a Voluntary Planning Agreement (VPA) with Council prior to the granting of a project approval for the proposal. The VPA should be exhibited as part of the assessment process.

- 11 Concern is raised for the inaccurate representation of the architectural form/design portrayed by the photomontages.
- 12 The scale, form and massing of the Big W/ Cinema Building and associated earthworks appears excessive.
- 13 Additional contamination investigations should be carried out on the subject site, prior to determination, as per the recommendations outlined in Table 18 of the Stage 2 Environmental Site Assessment, prepared by Coffey Geotechnics, dated 31 March 2008.
- 14 Concern is raised for the proposed setbacks to Road W05 having regard to the amenity for future development the adjoining properties to the south (overshadowing, presentation, bulk/scale, active street frontages), landscaping, and the like. Particular attention should be given to the future impacts of the proposed loading docks on future development on surrounding lands.

Stormwater Management

- 15 The stormwater management requirements for the development are discussed within Section 8.2 of the WTC DCP. The DCP identifies that a Water Sensitive Urban Design Strategy (WSUD) must be prepared by the applicant outlining how the development will comply with the requirements, and deliver the various elements, of the WTC Integrated Water Cycle Management Strategy (IWCM). The EA discusses the water sensitive urban design strategy at a philosophical level within the main body of the report and again in appendices E, G and M with compliance claimed in each reference.

Insufficient information has been provided within the EA to demonstrate compliance with the performance measures and targets applicable to the development within the IWCM Strategy, for both the ultimate and interim developed catchment scenarios. The WSUD Strategy should be further developed to conceptual design level and supported by hydraulic, hydrology, water quality and water balance modelling. Compliance with the Wetland Hydrology, Flooding, Stormwater Quality, and Potable Water performance

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measures and targets of the IWCM Strategy and Council's Stormwater Management Plan should be demonstrated as detailed below.

Wetland Hydrology

Satisfying wetland hydrology targets for the development is wholly dependant on the implementation of the Porters Creek Stormwater Harvesting Scheme (including February 2010 and March 2011 amendments). As such, stormwater management measures shall be compatible with the broader Porters Creek Stormwater Harvesting Scheme. The Initial Infrastructure Report correctly identifies that development is catered for in the proposed combined stormwater storage/detention basin on the adjoining property to the south (Landcom site). To demonstrate compliance with the targets, further details and commitments from the developer are required - including design and construction of the stormwater storage/detention basin, downstream pipe work to Wyong River and associated stormwater harvesting infrastructure, and landowners consent.

Implementation of the harvesting scheme for the upstream catchments is reliant upon the extension of pipe work through the development site. Commitment is required from the developer that the required pipe work will be provided with the development.

Flooding

The Initial Infrastructure Report correctly identifies that the proposed combined stormwater storage/detention basin on the adjoining property to the south has been conceptually designed to cater for the development with any storage deficiency to be provided on the development site.

To demonstrate compliance with the flooding targets further details and commitments from the developer are required including design and construction of the stormwater storage/detention basin (and supplementary on-site storage if required) and associated infrastructure, landowners consent and hydraulic/hydrologic modelling.

Stormwater Quality

The Initial Infrastructure Report correctly identifies the required water quality treatment targets but does not contain sufficient detail to demonstrate compliance. The infrastructure masterplan must be revised to show the location, type and capacity of all treatment/storage devices both in the public and private domain.

To demonstrate compliance with the stormwater quality targets the concept design must be supported by water quality modelling demonstrating compliance with Council's Stormwater Management Plan.

Potable Water

The capacity and location of rainwater tanks and/or other sources of alternative water must be shown on the development plan. Additionally, it must be demonstrated how the target of achieving 40% reduction in baseline mains water consumption and use of non-potable water sources for irrigation have been achieved.

Page 5**Mr Michael File – The Director, Strategic Assessment****Department of Planning and Infrastructure****Comments for Part 3A Application - Proposed Woolworths Retail Development for
Warnervale Town Centre**Maintenance

Provide water quality and quantity measures that are cost effective and affordable, with consideration to ongoing maintenance costs.

Water and Sewer Infrastructure/Serviceing

- 16 The site is not currently serviced for water supply and sewer disposal. Significant lead in works are planned to accommodate the development and the wider Warnervale Town Centre. Owners consent must be obtained from neighbouring properties for the construction of service/road corridors.
- 17 The typical service location shown within the Woolworths Warnervale Infrastructure Master Planning Environmental Assessment Report should be amended to comply with the requirements of Council's Development Control Plan 2005 Chapter 67 - *Engineering Requirements for Development*. The sewerage reticulation design and alignment should be further refined in consultation with Council where the development features zero building setbacks.
- 18 Other water and sewer requirements in relation to developer contributions, civil works, and connection requirements will be provided to the developer on application to Council under Section 305 of the Water Management Act 2000.

Carparking

- 19 The traffic consultant's assessment to adopt the lower carparking rates stated in the RTA Guide for Traffic Generating Development does not have sufficient justification. The Central Coast community has a strong culture of car reliance and suffers from scarce public transportation. The WTCDCP allows use of the RTA rates where land uses are not specified within, which is not the case for the proposed development.
- 20 Concerns are raised over the inclusion of the leisure/entertainment uses within the general retail carparking generation figures. Specific generation rates are adopted for gymnasiums, restaurants and cinemas, which typically generate parking at a much higher rate. In particular, concern is raised in relation to the cinema – the parking review estimates 160 spaces (3720sqm @ 4.3 spaces/100sqm), which would cater for a seating capacity of 1164 (using entertainment facility rates) or approximately 2 cinemas.
- 21 Some reduction to parking generation may be appropriate based upon multipurpose trips, offset parking peaks and proximity to the future transport interchange. Similar local development should be used to verify the assumptions before accepting any reduction in parking demand.
- 22 The parking layout requires amendment to cater for pedestrian movement on significant pedestrian desire lines.

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Warnervale Town Centre**

- 23 The development plans require amendment to provide appropriate bicycle storage, lockers and showers.
- 24 Clause 7.4(g) of WTCDCP only permits above ground carparking at the rear of shops, restaurants and the like, and for detached and attached housing. It also must be located behind the building line and screened from the public domain where possible. The carparking proposed adjacent to the proposed Civic Square on Retail level 1 fails to comply with this control.

Earthworks

- 25 The extent of cut exceeds the proposed filling of land associated with the proposal. Disposal details should be provided prior to commencement of works. Additionally, Geotechnical/Structural Engineering certifications will be recommended for all retaining structures and steep batter slopes (exceeding 1:3). Details should be provided in the EA.

Roads

- 26 It is noted that the Report on the Transport Aspects of Proposed Retail Development, Warnervale Town Centre, by Colston Budd Hunt & Kafes Pty Ltd, (dated June 2011), identifies signalising the Sparks Road intersections at Hiawatha Road and Virginia Road. This is contrary to previous advice from the RTA, which indicated that both intersections would ultimately be left in and left out only. There are concerns, however that until such times as the additional internal roads, Mataram Road extension through to the Town Centre (in the case of Hiawatha Road), and a future connection, Warnervale Road to Sparks Road, (between Minnesota Road and Virginia Road) are constructed, it would be creating unsafe movements in other locations to make those intersections left in and left out only. This is a matter for the RTA to determine in conjunction with Council as the Roads Authority.
- 27 Owners consent must be obtained from neighbouring properties where required for road corridors.
- 28 This application, with the exception of Road W01, has identified the northern limit of the development as Road W06. Whilst the road layout for the remainder may generally comply with that shown in the WTCDCP, it has been discussed with all the stakeholders of the Warnervale Town Centre that the perimeter road around the open space, as shown in the WTCDCP is not practicable and therefore will never be constructed.
- 29 There does not appear to be any provision for a future Taxi stand in the vicinity of the future railway station. Central Coast Taxis should be consulted to determine the length of a taxi zone required and an appropriate Taxi Zone provided for the development. Although stated otherwise in the application documents, Council has not been a party to discussions between Woolworths and the Department of Transport in regards to

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- 30 parking arrangements for buses, taxis etc for this development and the future railway station.
- 31 Further clarification is required from the developer in relation to road commitments to be completed with the development. In particular, clarification of the developer's commitment in relation to the construction of Road W01 extending from Sparks Road up to and including the roundabout is required.
- 32 Refinement of the conceptual roundabout design is required to accommodate two lanes circulating; with buses and service vehicles (semi trailers) being able to complete U-turns manoeuvres. The roundabout must be located and designed so that no additional road width is required over and above the normal lane widths beyond the eastern railway boundary.
- 33 Where the works are fully, or partially, completed as part of a legal agreement between land owners, the developer is requested to confirm that the timing of the delivery of infrastructure works will be completed prior to, or in conjunction with, the development works.

Main Street (Road W-06)

- 34 The proposed RL at the intersection of road W06 and W04 (plan 10S183C-MPEA13) will create an unacceptable 5.0 metre cut /batter or retaining structure which will sever connectivity between the commercial / residential developments and the town park. This will also create significant issues with the old waste disposal site in terms of costs associated with removal of contaminated material.
- 35 The typical cross section of Road W-06 shown on plan 10S183C-MPEA05 should be modified to show 3.2 metre wide travel lanes, with 2.5 metre wide parking lanes. It is suggested that the footpaths be widened to 4.5 metre wide.
- 36 The retention of Main Street (W06) ownership by the applicant is not supported. All proposed roads must be designed and constructed to Council standards, and dedicated to Council at no cost. The General Manager of Wyong Shire Council has previously made it clear to Woolworths that the Main Road must be transferred into Council ownership.

Town Centre Entry Road (Road W-01)

- 37 The length of the "kiss and ride" facility appears inadequate. Provision should be made for at least five carparking spaces.

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Warnervale Town Centre**

- 38 Traffic signals should be provided at the intersection of Road W-01 and Road W-06 to cater for the anticipated pedestrian movements between the proposed railway station and the Woolworths development. The intersection is to be designed in accordance with Austroads Guide to Road Design "AGRD04A-09 "Unsignalised and Signalised Intersections".
- 39 Traffic signals should be provided at the intersection of Road W-01 and Road W-05 to provide the necessary safety for all traffic, pedestrian and cycling movements. The intersection should be designed in accordance with Austroads Guide to Road Design "AGRD04A-09 "Unsignalised and Signalised Intersections".
- 40 The application does not contain any discussion in relation to the variation sought to WTCDCP Section 6.6 (b), in relation to gaining access to the carparks from the transport interchange (Portion of Road w01 adjacent to railway corridor). The arrangement is not supported and the development plans require amendment to provide alternate vehicle access.

Ecology

- 41 The ecological information submitted is insufficient to determine the impact of the proposed development. The EA does not include any additional detailed surveys and identification work to describe the exact nature of the values on the site, impact of the development and mitigation measures, as required by the WTC DCP 2008.
- 42 The State Significant Study referred to in the EA states that the WTC involves a net loss of native vegetation/habitat, which is to be proposed to be offset through the purchase of appropriate lands. The SSS is further quoted as stating that an offset strategy has been negotiated with DECC. However, it is Council's understanding that the offset strategy covered by the State Infrastructure Contribution that is in place for WTC does not relate to the proposed development, as it only applies to the residential development. The EA therefore does not sufficiently detail how the loss of habitat trees, and any native vegetation, as part of the proposed development will be offset. As previously stated, there may be an opportunity for compensatory nest boxes to be installed on conservation zoned land owned by Council, however this must be negotiated with Council's Economic and Property Services Unit.
- 43 The EA makes no reference to the status of the biocertification application for WTC (as required in the DGRs) and makes no assessment as to whether the proposed development meets a maintain or improve outcome with or without biocertification (as per the objectives of the WTC DCP).

Page 9

Mr Michael File – The Director, Strategic Assessment**Department of Planning and Infrastructure****Comments for Part 3A Application - Proposed Woolworths Retail Development for
Warnervale Town Centre**

44 The information submitted is inadequate having regard for the following:

- as the threatened fauna habitat and aquatic habitat likely to be impacted by the proposed development cannot be determined (such as loss of threatened owl, microbat or squirrel glider habitat trees),
- the impact of the proposed development cannot be extracted from that of the broader WTC,
- the assessments do not comply with s5A of the EPA Act,
- no assessments have been provided for threatened species listed since 2004 that may be impacted by the proposed development (such as the Little Lorikeet and Little Eagle),
- no ecological mitigation measures have been provided in the draft Statement of Commitments,
- no conclusion is made as to whether a maintain or improve outcome is achieved for the proposed development, and if required how offsetting will be achieved.

45 The 'Warnervale Town Centre Development Control Plan 2008' section 8.4(d) states that additional detailed surveys and identification work must be carried out for development of any land within the WTC. The DCP states that the information is to describe the exact nature, values and distribution of trees and identify measures for their maintenance and protection. Appendix R – Ecological Investigations of the EA submitted only contains the initial flora and fauna investigations and strategic ecological framework prepared to inform the State Significant Sites Study. The information provided does not adequately assess the impact of the proposed development for the following reasons:

- The EA includes figures from the State Significant Site Study showing the location of vegetation communities and ecological values in WTC. Figure 31 shows at least 8 habitat trees within the likely footprint of the proposed development. No further detail is provided regarding the impact of removal of these trees.

'Flora and Fauna Investigations' (Forest Fauna Surveys and Eastcoast Flora Survey 2004)

- The report provides results for surveys conducted over the entire WTC. Specific fauna habitats likely to be impacted by the proposed development, such as habitat trees suitable for threatened owls, microbats, Glossy Black Cockatoos or Squirrel Gliders, can not be identified from the figures contained in the report. The survey also did not involve a systematic habitat tree assessment.
- The survey results for the WTC are now over 8 years old. There would be merit in conducting a new round of surveys given the site has undergone some regeneration since cessation of use of the site as a plant nursery.

Page 10**Mr Michael File – The Director, Strategic Assessment****Department of Planning and Infrastructure****Comments for Part 3A Application - Proposed Woolworths Retail Development for
Warnervale Town Centre**

- The report contains assessments for threatened species in old "8-part test" format, which does not comply with the DEC (2007) *Assessment of Significance - Threatened Species Assessment Guidelines*. The assessments are also for the development of the entire WTC, therefore the impact of the proposed development can not be extracted.
- As the report was prepared in 2004 and no addendum has been provided it does not assess the impact of the proposed development on threatened species listed since then that may be impacted by the proposed development (such as the Little Lorikeet and Little Eagle).

Ecological Framework (Ecological 2005)

- This report identifies a number of key information gaps that must be fulfilled to complete ecological assessments for the site. Gaps identified include a Conservation Management Strategy, Conservation Management Plan, Assessment of Connectivity for Squirrel Gliders and Habitat Tree Assessment. This information has not been provided.
- No assessment is provided as to whether the vegetation required to be cleared or modified by the proposed development qualifies as the 'Lower Hunter Spotted Gum-Ironbark Forest' Endangered Ecological Community. The vegetation along the Nikko Road reserve is likely to qualify as the EEC. Confirmation is required as to what clearing is necessary for the proposed development and ancillary infrastructure.
- No detail is provided as to which of the key outcomes identified in the framework apply to the proposed development and how they will be implemented.

Draft Statement of Commitments

- 46 No ecological mitigation measures have been provided for the proposed development (as required in the DGRs), such as timing of vegetation clearing to avoid breeding seasons of key fauna species, method of vegetation clearing and draining of dams to reduce the likelihood of harm to fauna, where compensatory habitat enhancement (such as nest boxes and relocation of hollow logs) will be located given the lack of suitable areas of the site. There is opportunity for the boxes to be installed in the E2 conservation zoned land owned by Council, however issues such as access, compensation and maintenance and monitoring costs would need to be negotiated.

Page 11**Michael File – The Director, Strategic Assessment****Department of Planning and Infrastructure****Comments for Part 3A Application - Proposed Woolworths Retail Development for
Warnervale Town Centre**Stormwater Management

- 47 Council's Engineer has advised that the infrastructure plan for stormwater management relies on the stormwater basin being constructed on the adjoining land owned by Landcom. As the timing of this basin being constructed is unknown there is a risk that stormwater discharged from the site will impact on the water quality and hydrology Porters Creek catchment, including the small patch of Swamp Sclerophyll Floodplain Forest Endangered Ecological Community on the Landcom land to the south. The EA does not consider the potential impacts of the proposed development on the surrounding waterways in terms of aquatic ecosystems (as required in the DGRs). Either an interim stormwater management plan is required or an agreement between the land owners reached in regards to timing of construction of the basin.

Landscaping and Tree Retention

- 48 It is assumed based on the scale of earthworks that it will not be practical to retain any of the significant habitat trees on the site. No specific discussion of this matter could be found in the documentation submitted. No landscape design and plan has been submitted that demonstrates how the objectives of the WTC DCP will be met, including integration of biodiversity values through inclusion of local indigenous species, tree species requiring deep soil planting

Social Impact Assessment

- 49 The Social Impact Assessment is limited, providing basic demographic information (at a sub area locality, not the wider Warnervale/ Wadalba Social Planning District) and lists the results of a desktop study of local services within a 10km radius of the proposed Warnervale Town Centre.
- 50 The Assessment describes some of the social impacts of the development mainly in relation to benefits such as increased employment, contribution to the local economy, improved amenity and the provision of infrastructure for the local community. There is no analysis or description of any possible negative impacts of the development or actions as to how these impacts may be reduced or mitigated.
- 51 It is recommended that the Social Impact Assessment should include additional information such as an analysis/ description of any possible negative impacts of the development or actions as to how these impacts may be reduced or mitigated and an analysis of local public transport demographic data and service provision.

Shared pathway/ cycleway linkages

- 52 The applicant should also consider and demonstrate how the development will enhance the planned and current shared pathways/ cycleway (on and off road) linkages from the surrounding communities.

Page 12

Mr Michael File – The Director, Strategic Assessment

Department of Planning and Infrastructure

Comments for Part 3A Application - Proposed Woolworths Retail Development for
Warnervale Town Centre

Social Impacts and Benefits of the proposed development

53 The applicant should provide further information of impacts and benefits regarding:

- Sense of local ownership of the development
- Relationship of the development with local services
- Pedestrian access to and within proposed development

Community Engagement

54 The Social Impact Assessment does not examine how the local community, who will be impacted by the development, will be engaged. The applicant should provide information demonstrating how this has, or will be, undertaken.

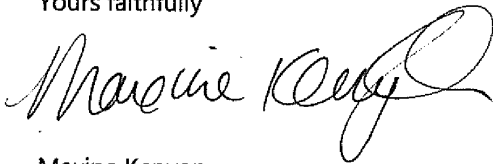
Public Art

55 As the total value of this project will be more than \$20 million Wyong Shire Council's DCP 2005 Chapter 112 - Public Art 2.1.1 Major Development applies. The Director-General Requirements require consideration of Wyong DCP 2005 Chapter 112-Public Art

As discussed at a recent meeting held on 19 October 2011 between the Department of Planning and Infrastructure and Council, Council would welcome the opportunity to make comment on the preferred project approval once it has been submitted to the Department. Following this assessment, Council will provide draft conditions for your consideration and inclusion in the assessment process.

If you have any questions in relation to the above please contact Peter Fryar, Manager-Development Assessment, on (02) 4350 5585, or Emily Goodworth, Team Co-ordinator-Applications, on (02) 4350 5436.

Yours faithfully



Maxine Kenyon

ACTING GENERAL MANAGER

4.6 Implementation of the Memorandum of Understanding between WSC, Newcastle University and Hunter TAFE

TRIM REFERENCE: F2011/01943 - D02812762

AUTHOR/MANAGER: Danielle Dickson; Manager Major Projects

SUMMARY

Council resolved at its 24 August 2011 meeting to support the development of a Memorandum of Understanding, and to undertake a master planning process, with the University of Newcastle and Hunter TAFE.

This report provides an update on the progress of the implementation of that resolution.

RECOMMENDATION

- 1 That Council request the General Manager to implement the Project Steering Committee with membership as detailed in this report.**
- 2 That Council endorse the Project scope, management framework and milestones as detailed in this report.**

BACKGROUND

The Ourimbah Town centre is geographically a key strategic location for the future development of the Central Coast. Council recognises the importance of developing a vision for the future growth and development of the town centre with the key landholders, stakeholder groups and the community.

In order to facilitate this process staff commenced discussions with University of Newcastle and Hunter TAFE earlier this year to develop a Memorandum of Understanding (MOU). The draft MOU was reported to Council in August who resolved as follows:

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

- 1 That Council support the joint master planning process proposed with the University of Newcastle, TAFE, Council and the community to inform the draft Local Environmental Plan process.*
- 2 That Council delegate to the General Manager authority to make minor amendments to the attached draft document, as required by discussion with the partners, and execute the final Memorandum of Understanding with the University of Newcastle.*
- 3 That Council request the General Manager to form a steering committee to oversee the process with representatives of the Central Coast Development Corporation, the University of Newcastle, TAFE and the local community.*

4.6 Implementation of the Memorandum of Understanding between WSC, Newcastle University and Hunter TAFE (contd)

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

AGAINST: NIL"

On October 10 the final MOU was signed by the General Manager and witnessed by the Mayor along with representatives of the University of Newcastle and Hunter TAFE. The final endorsed MOU is an attachment to this report.

This report details the proposed implementation of the MOU broadly and specifically the master planning process itself which is the initial focus of the parties.

CURRENT STATUS

In order to progress the master planning process the University of Newcastle, with input from Council, has engaged an external consultant to complete a concept master plan for the precinct. This will be the initial focus for the implementation of the MOU.

It is anticipated that potential exists in other areas of Council for cooperation between the parties for the benefit of the community; these include Life Long Learning, ecological expertise and efficient use and provision of parking and utilisation of open space.

THE PROPOSAL

Project Scope:

The master plan will engage the community, key stakeholders and the three parties to determine the vision for the future growth and prosperity of the town. It will also look at the strategic plan for the University and the most sustainable means to accommodate the projected growth. As part of the planning process the consultant will examine the latent potential of the town centre and examine the status of the key transport infrastructure items that will influence the future development of the centre, for example the Very Fast Train proposal and the RTAs road plans.

The MOU states that the parties wish to develop the Centre in partnership with the Ourimbah community in a manner that:

- is consistent with the priority objectives outlined in the Wyong Shire Community Strategic Plan (2030);
- complements the overall planning framework for the Shire and the Region;
- delivers a sustainable economic and development framework;
- is attractive to the property development and employment generating sectors as a place to invest in the long term;
- enables the Parties to work co-operatively and effectively, promote an open and consultative approach and prevent duplication of effort and resources.

4.6 Implementation of the Memorandum of Understanding between WSC, Newcastle University and Hunter TAFE (contd)

This project has links/synergies with other projects/programs across Council, these are detailed below:

- The completion of the master plan is proposed for early 2012. This will allow it to influence the review of the Shire's Retail Strategy and industrial land audit being completed by Land Use Planning and Policy Development as part of the first amendment to the Composite LEP.
- As part of the master plan process Council will also review its land holdings in the town centre.
- In the 2012/2013 financial year Place Management Unit has identified detailed work to be undertaken in Ourimbah as part of its program. This Master plan will provide a strategic framework for these works.
- Council's Infrastructure Management Department has commenced a flood study of Bangalow creek in the Ourimbah area.

The University of Newcastle and Council are funding the cost of the master planning process in partnership. In recognition of Council's 50% contribution to the project cost, staff have negotiated the bounds of study to be extended to encompass the existing commercial and retail lands through to the F3 junction.

In addition Council's role in the project will be to support the consultants engaged by the University by the provision of information and available studies as well as coordinating the consultation with the community and the stakeholders.

Milestones:

The management of the consultant for the master plan will be by the University of Newcastle, this will mean that the project management control of that component of the work will not sit with Council, however the preferred timeframes for the delivery of the overall project are as follows:

Major Project Delivery Phases	Start Date	Finish Date
Stage 1: Consultancy for the master plan including stakeholder engagement	Nov 2011	Feb 2012
Stage 2: Exhibition and formal public comment Consideration and incorporation of draft master plan into councils retail and industrial land strategies, and the dLEP	Feb 2012	April 2012
Stage 3: Finalisation of Master Plan	April 2012	May 2012
Stage 4: Incorporation of any zoning amendment in the dLEP Amendment 1	2012	
Stage 5: Commencement of work on the detailed planning by Place Management	2012	2013

The project has been assessed by Councils project evaluation tool and reviewed by Councils internal Project Assistance Team. The project was scored at 41, with strong scores in each of the four quadrants.

OPTIONS

1. Proceed with partnering with the University of Newcastle to complete the master planning process at their cost.
2. Do Nothing and allow the University to proceed with the master plan development in isolation.

Option one is recommended.

STRATEGIC LINKS

Wyong Shire Council Strategic/ Annual Plan

This proposal is not included in Council's Annual Plan.

Contribution of Proposal to the Principal Activity

The master plan will contribute to Principal Activity 6 – Environment and Land use for the development of the Shirewide Local Environmental Plan. It will also influence the ongoing work on Principal Activity 3 – Economic and Property Development in that some of Council's land holdings are within the master plan area.

Long term Financial Strategy

Nil impact at this point.

Asset Management Strategy

Nil impact at this point.

Workforce Management Strategy

Nil impact at this point.

Link to Community Strategic Plan (2030)

Developing the master plan and the MOU aligns with the priority objective: *The community will be educated, innovative and creative.*

Budget Impact

Major Projects has allocated \$10,000 from its existing budget to assist in facilitating this project, the allocation of any additional funds if required will be considered in the December quarter review. Council's contribution has been capped at a total of \$27,000.

CONSULTATION

Management Framework:

Internally the management and leadership of the project will be through a Project Control Group (PCG) as detailed below:

Chair: Director of Environment and Planning
Members:
 Manager Major Projects
 Manager Land use and Policy Development
 Manager Life Long Learning
 Manager Asset Management

An external Project Steering Committee will be set up, as resolved by Council, with representatives of the Central Coast Development Corporation, the University of Newcastle, Hunter TAFE and the local community.

A number of key stakeholders for the project have already been identified as detailed below. These stakeholders will be kept informed of the progress of the project.

Ourimbah District Community Precinct Committee
The shop keepers and business community of Ourimbah
The Ourimbah RSL
The Country Women's Association (landowners)
Ourimbah-Lisarow Cricket Club
Ourimbah Rugby League / Ourimbah Community Hall 355 Committee
Ourimbah Rugby Union Club
Ourimbah Tennis Club
Ourimbah University Football Club
NSW Touch Football
Central Coast Community College

The CCRDC will be requested to coordinate the appropriate input from the relevant State Agencies.

Council has also recommended to the University that a 'charette' process be incorporated in the process of the development of the master plan to allow the broader community to be involved in the design of the draft plan. This will be detailed in the tender submissions from the consultants.

The plan will also be placed on public exhibition to seek formal feedback from the community.

Both of the above items of the project scope will impact the timeframe in which the master plan is able to be delivered, especially the Xmas period approaches. The timeframes in this report will be dependant on the ability of the consultant, engaged by the University, to resource the project.

GOVERNANCE AND POLICY IMPLICATIONS

Nil impact at this point.

MATERIAL RISKS AND ISSUES

Nil impact at this point.

CONCLUSION

This report provides an update on the progress of the implementation of Councils previous resolution seeking a formal MOU with the University and TAFE, now that this has been executed staff seek Councils endorsement to the implementation framework outlined in this report.

ATTACHMENTS

- | | | |
|----------|--------------------------------------------------------------------------------------------------------------------|------------|
| 1 | Legal Document - Agreement - Memorandum of Understanding
between WSC and the University of Newcastle - Tafe NSW | LDOC008837 |
|----------|--------------------------------------------------------------------------------------------------------------------|------------|

LEGAL DOCUMENT LODGEMENT FORM

Lodgement Date	12-10-11
Date of Legal Documents	10-10-11
Type of Documents	MEMORANDUM OF UNDERSTANDING
ie: Agreements, Contracts, Easements, General, Lease, Loans (see separate forms for Bank Guarantees and Certificates of Title)	
Expiry Date of Document (if applicable)	10-10-14
Parties	- WYONG SHIRE COUNCIL - THE UNIVERSITY OF NEWCASTLE - TAFE NSW by its Hunter Institute address
Address	- HELM ST WYONG - CHITTAWAY RD OURIMBAH - CHITTAWAY RD OURIMBAH
Details of Document	MOU between TAFE ^{NSW} The University of Newcastle, WSC to encourage revitalisation of ourimbah town centre and ^{completion of master planning to} facilitate the accommodation of
Property Description	Lot / DP the future growth of the campus and associated research facilities and student accommodation
Review Date	10. Oct. 2014.
Responsible Officer	Manager Major Projects. Danielle Adkison.
Folder Number	F2011/01943.
Note: This form and the original documents are to be delivered to Corporate Information.	
Legal Document supersedes LDOC (if applicable)	
After legal document is recorded on the computer a TRIM link is emailed to the responsible officer advising of registration.	
Send link to Sonia Witt for the Agreement Register to be updated.	
Please tick if you need the Original Document to be returned to you for mailing out <input type="checkbox"/>	

File Name: Legal Document Lodgement Form
Responsible Officer: Team Leader, Corporate Information
Approval Date: April 2009

Revision No: 1
Approved by: Chief Information Officer
Document Review-by Date: October 31 2012

Warning: Printing copies of this document no in an official Manual MAY NOT BE THE LATEST. The most up-to-date version is located on the WSC Intranet.

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MEMORANDUM OF UNDERSTANDING

Between**WYONG SHIRE COUNCIL ("Council")**

Hely Street, WYONG, NSW

And

The University of Newcastle ("UON")

Chittaway Rd, OURIMBAH, NSW

And

TAFE NSW by its Hunter Institute address

Chittaway Rd, OURIMBAH, NSW

Purpose

The UON, TAFE NSW - Hunter Institute and Wyong Council ("the Parties") recognise the importance of the UON's and TAFE NSW - Hunter Institute's presence on the Central Coast at the Ourimbah Campus ("the Campus"), in terms of their contribution to the social fabric, educational and research development, skills base, future development and population growth of the local region. Both parties are committed to enriching and developing the community.

The Parties each have their own objectives to develop the Ourimbah community:

- UON wishes to promote within the limits of its resources, of scholarship, research and free inquiry, the interaction of research and teaching, and academic excellence to meet the needs of the community.
- TAFE NSW - Hunter Institute provides high quality vocational education and training to build a sustainable economy and community wellbeing.
- Council's Wyong Shire Community Strategic Plan (2030) *clearly* identifies the vision and aspirations of Wyong's growing population to "Create our ideal community: caring... prosperous... sustainable".

The Campus offers UON, TAFE NSW and Central Coast Community College programs. The Campus projects significant growth in student enrolments in line with Commonwealth and NSW State education objectives and the strategic plans of each institution. The UON is seeking opportunities to enable future expansion of educational and research facilities as well as student accommodation. Currently the Campus is constrained by land area.

Ourimbah Town centre ("the Centre") is a key strategic location for the future development of the Central Coast. Council recognises the importance of developing the vision for the Centre as an education and training precinct that supports and enhances the growth of education, training and research and attracts business and investment.

MEMORANDUM OF UNDERSTANDING**The University of Newcastle; TAFE NSW - Hunter Institute; Wyong Shire Council**

Wyong Shire Council intends to work with UON and TAFE NSW - Hunter Institute in a master planning exercise for the whole of the Centre. The masterplan will incorporate planning for future growth of the Campus' and provide opportunities for promoting business and investment to develop the Centre into an education and training precinct interacting with the community, industry and commerce. ("the Project").

To demonstrate their ongoing commitment and facilitate the development of the Project, the Parties have agreed to enter into this Memorandum of Understanding ("the MOU").

Objectives

The Parties wish to develop the Centre in partnership with the Ourimbah community in a manner that:

- is consistent with the priority objectives outlined in the Wyong Shire Community Strategic Plan (2030);
- complements the overall planning framework for the Shire and the Region;
- delivers a sustainable economic and development framework;
- is attractive to the property development and employment generating sectors as a place to invest in the long term;
- enables the Parties to work co-operatively and effectively, promote an open and consultative approach and prevent duplication of effort and resources.

General Provisions

The Parties mutually agree:

- Nothing in this MOU shall be deemed or construed by the Parties or any third party as creating the relationship of a partnership or joint venture or the relationship of principal and agent between the Parties;
- To act and consult transparently and in good faith,;
- A variation of this MOU must be in writing and signed by the Parties;
- Each party will do all things and execute all documents necessary to give full effect to this MOU;
- They do not intend that this MOU create a legally binding relationship between them.

Development Principles and Concepts

In their plan for development of the Project the Parties support the following guiding principles:

1. Planning and management strategies for Wyong Shire need:

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MEMORANDUM OF UNDERSTANDING**The University of Newcastle; TAFE NSW - Hunter Institute; Wyong Shire Council**

- to be responsive to the changing needs of the community, government, council, visitors and investors;
 - to be economically, environmentally and socially viable and sustainable whilst attempting to satisfy the multiple and contemporary bottom line requirements of the community, stakeholders and the Parties;
 - to complement planning objectives for the Central Coast Region and in so doing should contribute to revitalising employment centres, transport and communities.
2. From time to time other stakeholder input may be encouraged to ensure that the functional diversity of all users and their needs is addressed.
 3. Priority objectives underpinning community and other stakeholder support for Wyong Shire growth and development as articulated in the Community Strategic Plan (2030) in short include:
 - (a) Communities will be vibrant, caring and connected;
 - (b) There will be ease of travel;
 - (c) Communities will have a range of facilities and services;
 - (d) Areas of natural value will be enhanced and maintained;
 - (e) There will be a sense of community ownership of the natural environment;
 - (f) There will be a strong sustainable business sector;
 - (g) Education and research technology will be world's best;
 - (h) The community will be educated innovative and creative

Lands Covered by this MOU

In broad terms, the land which is the primarily the subject of this MOU includes appropriate lands within the Wyong Shire which may support and encourage and promote the ongoing development and expansion of UON and TAFE NSW - Hunter Institute.

Proposed Approach

The Parties intend to work cooperatively through a project meeting structure.

Organisation and Communications

The delegates (or their representatives) of each of the Parties has responsibility for carriage of this MOU and shall:

- (a) Have sufficient authority to commit the necessary resources of the Parties.
- (b) Work co-operatively and communicate as necessary to ensure that the objectives of this MOU are delivered.
- (c) Promote the adopted partnership approach within their respective organisations and to external stakeholders.

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MEMORANDUM OF UNDERSTANDING**The University of Newcastle; TAFE NSW - Hunter Institute; Wyong Shire Council**

The Parties will convene a meeting and develop a timetable for regular consultation and communications between them.

The Parties will establish the primary formal mechanism for communication between them in the meeting.

The Parties recognise that for this MOU to be successful a range of formal and informal communication techniques are required. The Parties are committed to striving for an effective communication system which is open, and where messages are transmitted quickly, efficiently and unambiguously.

If they require it the Parties agree to define how communication will take place with stakeholders and the broader community.

Resources and Costs

The Parties acknowledge that:

- There are significant skills and knowledge available within their organisations and existing resources that will be of value to the Project and any future project;
- There will be considerable advantages in applying joint resources to tasks required to deliver projects in whatever role the Parties may agree;
- Specific staff member/s will be nominated as responsible officers to undertake specific projects;
- The Parties agree to the transparency and transfer of information between the Parties for the mutual benefit of the Project;
- The Parties' resources for Capital Works are limited, and subject to multiple competing priorities. There is the potential to apply for external funding, subject to agreement of the relevant parties and in accordance with the guidelines/requirements of the external funding source.

Unless there is a major resource commitment involved, the Parties agree to apply their resources as a contribution to projects (as far as overall priorities permit) where it is agreed that there would be benefits to the Project in doing so and subject to formal agreement.

Unless otherwise agreed, each Party will meet its own costs in developing this MOU and delivering its outcomes.

Information Sharing

The Parties agree to share information that the Parties believe would be of assistance to the efficient and effective delivery of the Project, subject to:

- Restrictions imposed by law;
- Commercial-in-confidence or other probity requirements.

30/09/11

4

MEMORANDUM OF UNDERSTANDING

The University of Newcastle; TAFE NSW - Hunter Institute; Wyong Shire Council

Intellectual Property

Subject to formal agreement, intellectual property initiated, developed and implemented as an outcome of activities initiated jointly as an output of this MOU and paid for jointly shall be the equal property of all parties. Such intellectual property shall have no value in respect of any transaction between the parties but may have a commercial value when used with or made available to, with an external party.

Intellectual Property that either party brings to the activities conducted jointly shall remain in the ownership of the contributing party.

Disputes

All efforts will be made to resolve issues expeditiously.

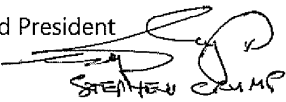
Termination

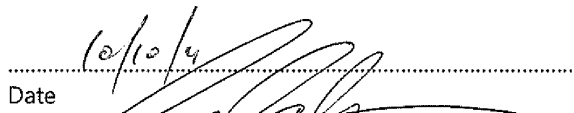
- This MOU will terminate 3 years from the date of execution subject to no extension being agreed in writing prior to the Termination Date.
- Any party may terminate this MOU prior to the termination date, by providing sixty (60) days written notice to the other party.
- Following termination of this MOU in accordance with the above paragraphs, each party shall continue to be responsible for any cost sharing arrangement that has been agreed to in writing in relation to this MOU.

EXECUTED as a Memorandum of Understanding



SIGNED by Professor Nicholas Saunders Vice Chancellor and President on behalf of the University of Newcastle In the presence of:


STEPHEN CAMP

12/10/11
Date 

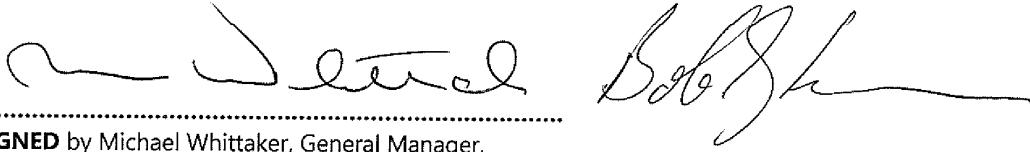
SIGNED by Christine Warrington, Associate Director On behalf of TAFE NSW – Hunter Institute in the presence of:



10th October 2011
Date

MEMORANDUM OF UNDERSTANDING

The University of Newcastle; TAFE NSW - Hunter Institute; Wyong Shire Council



.....
SIGNED by Michael Whittaker, General Manager,
On behalf of Wyong Shire Council in the presence of:

10/10/11
.....
Date

30/09/11

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4.7 Conference Attendance - Hunter Social Enterprise Forum 2011

TRIM REFERENCE: F2004/06466 - D02828042

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Monica Redmond; Administration Assistant

SUMMARY

Council has received information from the Hunter Social Enterprise that it will be presenting its 2011 Forum which will be held in Newcastle on Friday 11 November 2011. Councillor Symington has indicated interest in attending this Conference.

RECOMMENDATION

- 1 That Council authorise Councillor Symington, and any interested Councillor/s, to attend the Hunter Social Enterprise Forum 2011 being held in Newcastle on Friday 11 November 2011.**
- 2 That Council endorse reasonable expenses incurred by Councillors attending the above conference in accordance with Council's Facilities and Expenses Policy for Councillors.**

BACKGROUND

Conferences or seminars

In accordance with the provisions of Council's Facilities and Expenses Policy for Councillors, and subject to Council's prior approval, WSC will pay for attendance at a maximum of three conferences per year for each elected member and attendance at the annual NSW Local Government Association Conference.

The maximum number of elected members authorised to attend a conference or seminar is three.

Training Courses

WSC will pay for the attendance at training courses, subject to Council Resolution, for up to three Councillors per course, per year where the total expense for attendance of each councillor is less than \$5000.

Details of conferences, seminars and external training sessions are provided for determination of Councillor Attendance.

THE PROPOSAL

The Forum is proposed to be held at the Crowne Plaza, Newcastle on Friday 11 November 2011 and will feature Simon McKeon, 2011 Australian of the Year and social entrepreneur. The Hunter Social Enterprise Forum is an opportunity for leaders from business, government, community and education to come together with existing and aspiring social entrepreneurs to learn, share and collaborate. Social enterprises are businesses that exist for the benefit of the community and use its profit for social good. They build a more just, sustainable world by applying market-based strategies to today's social challenges.

OPTIONS

Nil impact.

STRATEGIC LINKS

Strategic Plan

Nil impact.

Contribution of Proposal to the Principal Activity

Nil impact.

Link to Shire Strategic Vision

The conference will enable Councillors to observe how business and community go hand in hand and learn how social enterprise can benefit society which will in turn benefit the community. The following issues items have been listed for discussion at the Forum:

- Social Enterprise – Business and Community in Partnership
- Building a Social enterprise Movement in the Hunter.

Financial Implications

The table below indicates the cost for attendance at the Fourm and associated travel expenses per Councillor:

Hunter Social Enterprise Forum 2011	Councillor Fees
Registration (incl GST)	\$55
Travel (by vehicle approx)	\$50
Total - estimate	\$105

*note Course runs from 7.00am – 11.00am with breakfast provided

Principles of Sustainability

Nil impact.

CONSULTATION

This submission complies with Council's adopted Facilities and Expenses Policy for Councillors.

GOVERNANCE

In accordance with the provisions of Council's Facilities and Expenses Policy for Councillors, Councillors are encouraged to attend external training sessions that will support their professional development as a Councillor. Reasonable expenses incurred in Councillors attending external training are met in accordance with that policy.

CORPORATE RISKS

Nil impact.

CONCLUSION

The conference listed would be of benefit to the professional development of Councillors and attendance is encouraged.

ATTACHMENTS

Nil.

4.8 Lakes Beach Eco-Tourism Proposal

TRIM REFERENCE: CPA/169320 - D02828182

MANAGER: Bob Platt, Acting Director Corporate Services

AUTHOR: Garry McLachlan; Manager Business Development

SUMMARY

Reporting on the findings of the ecological studies undertaken by Conacher Consulting on Crown land located immediately south of the Lakes Surf Club.

RECOMMENDATION

- 1** *That Council resolves not to support any development, including an eco resort on Crown land south of the Lakes Surf Club as a result of the findings of the ecological studies undertaken by Conacher Environmental Group.*
- 2** *That Council refer the final Ecological Report be referred to Councils Environment and Natural Resource Section for consideration and appropriate action.*
- 3** *That Council undertake additional investigations on land identified in the Conacher report located between the southern and centre car parks and including the car parks, with a view to establishing whether this portion of land could be suitable for the establishment of a quality eco-resort.*
- 4** *That Council refer the final Ecological Report be distributed to the Estuary Management Committee.*

BACKGROUND

In 2007 Council resolved to compile a bid to secure the rights to host the 2010-2012 Australian Surf Life Saving Championships and selected the Lakes Beach as the venue for the Championships. The bid included substantial back of beach works which included large grassed areas with picnic tables and amenities not only for those attending the event, but also for members of our community to utilise when the event concluded. The master plan included boardwalks, car parking areas and included a large amphitheatre and grandstand in the area immediately south of the surf club in the location where the current proposal is located.

Recognising the need for quality accommodation nodes within the northern portion of the Shire, Council through its operational plans continued to investigate opportunities on Crown Land in the vicinity of the Lakes Beach Surf Club.

In 2010 a site constraints review was undertaken by Conacher Consulting to assess whether potential existed for the establishment of an eco resort on Crown Land south of the Lakes Surf Club. The report targeted flora and fauna issues with the survey not detecting any endangered ecological communities within the area of interest, but did identify vegetation groups Littoral rainforest and Swamp Sclerophyll Forest, recognised endangered ecological communities, at the southern extremity of the study area.

In October 2010 Council was alerted to the presence of native orchids in the study area, however the flowering season was at its end and it was determined to wait a further 12 months and undertake the survey for orchids in the flowering season.

Council resolved on the 22 June 2011 to continue with the ecological studies until they have been concluded, with the following resolution adopted;

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

- 1 That Council note the recommendations of the Tuggerah Lakes Estuary Coastal and Floodplain Management Committee - Eco-Tourism Park Proposal.*
- 2 That Council defer any decision regarding its support or opposition to the proposal pending completion of all relevant ecological studies due October 2011.*
- 3 That Council consider a report on the ecological studies.*

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

AGAINST: COUNCILLOR VINCENT”

DISCUSSION

After the resolution of Council in June staff met with the consulting ecologist and identified the best approach to proceed in this matter. It was determined that the area should be thoroughly searched to determine the extent of the orchid population and to ensure that the results were accurate.

A targeted survey on Orchid species, in particular *Caladenia porphyrea*, was undertaken by Conacher Consulting in August through to October, the flowering season. The objectives of the targeted survey were;

- 1 The flowering period of *Caladenia porphyrea* within the investigation area;
- 2 An estimate of the distribution of the local population of *Caladenia porphyrea*;
- 3 An estimate of the size of the local population of *Caladenia porphyrea* present within the investigation area.
- 4 Identify and record all other species of orchids.

The survey work commenced on 1 July 2011 with the first flower observed on 26 August 2011. The survey is concluded when no flowers are observed for two consecutive weekly surveys. This occurred on the 17 October 2011.

Whilst the orchid survey recorded all orchids encountered during the investigation the survey targeted the endangered species *Caladenia porphyrea*. The survey found 813 plants in 85 clumps of *Caladenia porphyrea* in a location immediately south of the Lakes Surf Club.

This species of orchid is listed as an endangered species under the Threatened Species Conservation Act and the isolated location of the population may enable the area to be listed as an endangered population under the Threatened Species Conservation Act. Accordingly the report will be referred to council's Environment and Natural Resource section for action. The survey for *Caladenia porphyrea* is attached as appendix 2.

After discovery of the flowering *Caladenia* orchids, searches to the north and south of the survey site were carried out to determine the extent of the orchid population. Orchids were not discovered in either these areas.

The survey indicated that the areas to the south of the subject site includes the Sclerophyll Forest and the Littoral Rainforest whilst the areas to the north located between the southern and centre car park and a small area north of the centre car park has no significant native vegetation and is heavily impacted by weeds including bitou bush. The report states that from an ecological viewpoint the area north of the Lakes Surf Club is an area that could be utilised for an eco resort.

The report concludes that future development within the area south of the Lakes Surf Club is likely to be highly constrained due to the presence of vegetation classified as endangered ecological communities and the distribution of a local population of the endangered terrestrial orchid species *Caladenia porphyrea*.

The consultant has advised that the final ecological report will be completed in time to present to the 14 December 2011 meeting in Council. The final report will be useful as a reference document for Council's Sustainability and Natural Resources section.

The two Ecological reports provided by Conacher Consulting to date have cost \$11,800 ex GST. Future investigations would require minimal expenditure (anticipated \$5,000).

It is therefore recommended that Council not support any form of development on crown Land south of the Lakes Surf Club.

TOURISM AND ACCOMODATION IN WYONG SHIRE

It has been recognized for some time that quality tourist accommodation nodes are lacking in the northern section of Wyong Shire. Indeed the last 2 quality accommodation facilities established in Wyong Shire were Magenta Shores and Koowinda Waters, which have now been established for a number of years

Council has previously recognized the dire state of accommodation in the north of the Shire and has required Central Coast Tourism to assist Council in improving this state by assigning a specific task relating to improving tourist destinations in the north of the Shire in their funding agreement.

It is recognized that local and international tourists are expecting more than a holiday they are expecting an experience and a location that will attract their return.

The Queensland Government has recently adopted a policy that encourages sustainable nature based tourism within National Parks and five World heritage areas which are internationally renowned for their beauty, diversity and unique natural values.

On the 2 December 2009 the Department of Planning under the then Labour Government introduced an LEP Practice note (PN 09-006) that provided guidelines for local government

to consider tourism opportunities which included eco tourism and back packing facilities in the Environmental protection Zones E2,E3,E4. The Government took this direction as it recognized the potential to boost tourism and create employment in New South Wales.

Other Local Government areas have utilized locations that have high public appeal to create destinations that have an appeal both locally and internationally. Cabins have been installed in the trees of the Daintree, on cliff faces in the Great Barrier Reef National Park, within National Parks in New South Wales and along beaches in Queensland and Western Australia.

Coastal Councils are also installing boardwalks along coastal trails to entice tourists, indeed Council has received funding for a boardwalk along the coastal strip at The Entrance. Lake Macquarie Council has cantilevered a cycle way over Lake Macquarie and it is used by thousands. Newcastle City Council are considering a coastal boardwalk elevated on high coastal cliff faces and have under construction a restaurant nightspot on the beach at Merewether.

Whilst the northern portion of Wyong Shire is not in the same category as some of the Queensland and New South Wales locations it certainly does have some unique and beautiful locations, with the Lakes Beach precinct being one such location.

It must also be recognized that there are not many locations in this portion of the Shire that could cater for a four star plus eco resort. The opportunity to develop a quality accommodation node on the beach in a pristine location such as the Lakes must not be lost.

It is understood that managing growth while conserving natural values is a balancing act but by working collaborately with all stakeholders, balance can be achieved.

ALTERNATIVE SITE LAKES BEACH PRECINCT

The consultant Conacher Consulting has identified an area north of the Lakes Surf Club that from an ecological viewpoint would be a viable alternative for the establishment of an eco resort. The identified site has an area of approximately 3 Hectares and includes a 3,000 sm tar sealed car park and toilet block.

The ecological report indicates that the same constraints in relation to endangered ecological communities and endangered or vulnerable plant species have not been identified within the two areas of land to the north of the car park area. These areas of land contain areas of moderate to highly degraded regrowth dune vegetation with high levels of exotic weed invasions present.

The site is located between the dune and Budgewoi Road, it is a narrow and elongated parcel of land but is located within close proximity to the Lakes Surf Club.

Site 1 identified in the Conacher report is located within the Lakes Beach United Dune Care precinct but has not been subject to any restoration. Council's records indicate that the group has completed some works on the dune immediately north of the surf club. The records also indicate that in the area of interest weed density is 70-100% with bitou bush being the dominant species.

Site 2 identified in the Conacher report is located within the Budgewoi Beach Dune Care precinct, but to date no restoration has taken place in this area. Indeed the Dune Care Action Plan for this precinct identifies that no work is planned in this area for the upcoming year.

The site has a number of challenges including sea level rise, being located within the 50 year recession line and SEPP 71 to mention a few.

Council's position on an eco resort has always been to construct a facility with no bricks and mortar, but to strategically locate cabins and modern tents throughout the site, retaining significant vegetation and connect the accommodation facilities with raised boardwalks.

Therefore should sea level rise or the sea top the recession line the facilities could be moved to higher ground in a short period of time. It must also be recognized that should either of these two events take place all vegetation within the area of inundation would also be impacted upon and ultimately perish.

The establishment of an eco resort in this precinct would provide many advantages to the community including;

- Creating an alternative revenue stream that could provide up to \$600,000 annually to the precinct through a process similar to existing cluster fund arrangements. The funding could be directed to Land care groups, the surf club and provide assistance to the disabled beach precinct. Council's annual commitments are becoming more difficult to fund from existing budgets and alternative sources must be found
- The area that currently has 70-100% weed invasion would be regenerated with native species as part of the landscape plan for any development.
- The existing tar sealed car park can be significantly reduced in size and some of the area being regenerated with native species.
- Employment opportunities for our community.
- Provide boardwalks that connect existing residential communities to the patrolled surfing beach.
- The establishment of an interpretive centre that would showcase land care, coastal management techniques, the marine environment and indigenous history

Council currently manages tourist parks in similar locations, Toowoan Bay is located on a high fore dune overlooking North Shelly Beach and Canton Beach and Budgewoi tourist parks are located on the shores of Tuggerah and Munmorah Lakes respectively. Privately owned facilities such as Kim's at Toowoan Bay and Blue Lagoon at Bateau Bay are established just above the high water mark and within the 50 year recession line.

The site identified in the aerial photo attached as Appendix 2 is worthy of further investigation if Council is to meet the challenges of providing quality accommodation facilities within our Shire. It will therefore be recommended to Council that further investigations be carried out to determine whether the site located north of the Lakes surf club is suitable for an eco resort.



View of Bitou Bush infestation of site 1



View Carpark north of site 1

ECONOMIC and FINANCIAL ASSESSMENT of ECO RESORT

As the proposal is at a conceptual stage a detailed financial assessment of the project has not been undertaken. However, to give Councillors an understanding of the likely financial impacts of such a program it is assumed that the first stage will consist of fifty high end accommodation nodes (cabins/tents) being located on site.

Financial models of similar existing facilities indicate that a 70% occupancy rate would net a return of approximately \$600,000 per annum after all expenses, including the CALM levy, would be achieved.

It is broadly estimated that it will cost \$5,000,000 to develop the first stage with funding being available through a variety of sources including internal loans, loans from the LPMA, grants and Regional Development Australia. Should Council decide to proceed with the project a detailed economic analysis will be undertaken.

It is recognised that the northern part of Wyong Shire is depressed and requires an injection of wealth. The area suffers from high youth unemployment and a lack of quality accommodation outlets. Indeed, several existing motels within the Toukley district have been forced to resort to secure an income stream by accommodating Department of Housing and Welfare clients, not tourists.

The establishment of a quality accommodation node in this area would be a significant benefit to the community in general.

COMMUNITY CONSULTATION

It is recognised that for a variety of reasons community consultation during the formation of the project to establish an eco resort on Crown land south of the Lakes Surf Club was inadequate.

This was highlighted by the public protests and community meeting organized by a small but concerned section of the community.

It is regrettable that council's poor performance in this area has led to an amount of misinformation being distributed to the general community. Council must learn from this lesson and if it decides to proceed with further investigations on the alternative site then a communication and consultation strategy must be developed with input from the community and interested groups.

It is encouraging to note that the community members who opposed the eco resort have consistently said it was not the concept that they opposed but the location. This point of view was highlighted in an article in the 2 September 2011, Express Advocate. The article showcased a site meeting between some community members and the Deputy Opposition leader in New South Wales, Linda Burney, in which the dune care members and Ms Burney stated "none of the members are against an eco village style development, just not in this location".

During any consultation Council must ensure that it achieves a balanced response bearing in mind that Wyong Shire now has 150,000 residents.

CONCLUSION

The ecological studies undertaken by Conacher Environmental Group have confirmed the existence of a substantial population of the endangered orchid *Caladenia porphyrea* in the area proposed to establish an eco resort. These results support Council's direction to complete the studies and await the ecologist's findings was the correct decision.

The investigations carried out by Conacher revealed a 2-3 Hectare site north of the surf club that has no ecological issues and therefore may be suitable for an eco resort. The area is heavily weed infested and includes an old tar sealed Carpark and toilet block. Considering the views expressed by the opponents to the development south of the surf club being that they are not opposed to an eco resort just the location south of the club, this site may be more acceptable to the community.

Council has expressed support in a number of documents and articles to improving tourism opportunities within the northern portion of the Shire and an eco resort would meet this commitment. An eco resort would also create an on going revenue stream that could be injected into environmental and community services within this precinct.

It is acknowledged that there are many challenges associated with this project but there are also many opportunities. Council can create a tourist facility that will gain world wide recognition and inject considerable wealth into our community. Development in recent times has stagnated particularly within Wyong Shire and this is an opportunity for Council to lead the way forward by developing a high quality tourist resort.

Based on the results it is recommended that Council resolve not to support any form of development on Crown Land south of the Lakes Surf Club.

It is also recommended that Council proceed to engage the community and investigate the site north of the Lakes Surf Club for the establishment of an eco resort.

ATTACHMENTS

- | | | | |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|
| 1 | Site Constraints Review - Possible Caravan Park Central Coast Highway Budgewoi - January 2010 (ref 9128b) | Enclosure | D02828261 |
| 2 | Preliminary Report on Targeted Survey for Caladenia Porphyrea - Lakes Beach Budgewoi - November 2011 (ref 9128), including figure 1 - Location of Orchids and figure 2 - Additional search locations | Enclosure | D02828252 |
| 3 | Lakes Beach Precinct | Enclosure | D02828369 |

5.1 Information Reports

TRIM REFERENCE: F2011/00027 - D02810716

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Susanna Gardiner; Administration Assistant

SUMMARY

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

RECOMMENDATION

That Council deal with the following Information Reports by the Exception Method.

ATTACHMENTS

Nil.

5.2 Central Coast Tourism Inc - Update

TRIM REFERENCE: F2004/07096 - D02813494

AUTHOR/MANAGER: Garry McLachlan; Manager Business Development

SUMMARY

Reporting on the July to September 2011 quarterly report on Central Coast Tourism Inc.

RECOMMENDATION

That Council receive the report on Central Coast Tourism Inc - Update.

On 1 September 2010 a Memorandum of Understanding between Wyong Shire Council and Central Coast Tourism was signed by the Chief Executive officers of both organisations.

Central Coast Tourism has now provided a report for the July quarter of progress against actions in the destination Management Plan and the deliverables in the MOU.

The deliverables provide a commitment to the Tourism Strategy for the northern part of the Shire and Commitment to support improved mobile service coverage in Wyong Shire have not been addressed at this stage and require further direction from Council. A meeting will be held between Council and CCTI prior to the presentation of the next quarterly report to reach agreement on the direction to be taken in these matters.

ATTACHMENTS

- 1 Central Coast Tourism Inc Quarterly Report - July to September 2011

Enclosure D02813570

5.3 Mardi to Mangrove Link Project Status

TRIM REFERENCE: F2007/01120 - D02805920
MANAGER: Daryl Mann; Acting Manager Water and Sewerage
AUTHOR: Daniel Kemp; Engineer

SUMMARY

Report on status of Mardi to Mangrove Link Project.

RECOMMENDATION

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

PROJECT SCOPE

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

CURRENT STATUS

Expenditure to date	October 2011	\$110m
Value of works Complete	October 2011 (est)	\$111.2m
Approved Budget		\$120.6m
Overall Construction Status (excluding Commissioning)	Completion Date: 25 November <u>2011</u>	% Work Complete: <u>99%</u>

Construction Status

	Scheduled Start	Scheduled Completion	% Work Complete
Milestone 1:		25 November 2011	99%
Pre-construction – Management Plans & Approvals	4 January 2010		100%
Work Package 1 – Wyong River Off-take	7 April 2010		100%
Work Package 2 – Wyong River Pump Station	19 February 2010		99%
Work Package 3 – Wyong Mardi Rising	16 February 2010		100%

5.3 Mardi to Mangrove Link Project Status (contd)

Main 3			
Work Package 4 – Wyong Mardi Inlet	6 May 2010		100%
Work Package 7 – Mardi Mangrove Transfer Main	1 March 2010		100%
Work Package 18 – Wyong Weir, Fishway & Gauging	5 August 2010		100%

Milestone 2:		4 April 2011	100%
Work Package 6 – Mardi Mangrove Transfer Pump Station	21 June 2010		100%
Milestone 3:		1 February 2012 *	70%
Commissioning	1 August 2011		

(Dates as per JH latest program C22) * excl 2 week contractor's float

Key Dates

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

Land Matters

- Pipe laying has been completed on all properties.
 - 50/56 properties have been restored (excluding minor outstanding works).
 - Works have been 100% completed by John Holland on 50/56 properties.
 - 41/56 landholders have signed releases.
 - Easement Plans have been prepared for all properties and have been sent to the Office of water.
-

Stakeholder Liaison**Media**

- No media releases this week.

Resident communication

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

Incidents

- No significant Environmental or safety incidents occurred in the last period.
 - Ongoing monitoring of siltation controls at Ingram property.
-

Major Achievements / Issues

Note: As from 31 October, River extractions from Ourimbah & Wyong have ceased to allow Mardi Dam to maintain 85% capacity. This space (15%) will allow for commissioning activities for WP02 to proceed in the following weeks.

- Work Package 1: Work on this package has been completed.
- Work Package 2: Work on the Wyong River Pump Station has also been effectively completed. During the commissioning / testing process there has been identified issues with the Knife gate valves and intake mains which JH are currently working through. Until these issues are rectified, final commissioning is on hold.
- Work Package 3: Work on this package has been completed.
 - All air valves that have previously been installed on WP 03 have been rejected on performance and quality. JH have started to replace air valves with a complying product.
- Work Package 4: Construction of the Mardi Dam Discharge Structure has been completed.
- Work Package 6: Construction of the Mardi to Mangrove Transfer Pump Station has been completed. Commissioning of the transfer pump station has now commenced.
 - During commissioning there has been multiple issues concerning pump performance. JH, PW & Council are currently investigating.
 - Valve protective coating has been rejected on three valves. These valves are currently being re-coated and programmed to be completed in 2 weeks.
 - No pumping or commissioning test can proceed until re-coated valves are returned to service.
- Work Package 7: Construction of the pipeline is now completed. All the hydrostatic pressure testing is complete, commissioning has now commenced.
 - All air valves that have previously been installed on WP 07 have been rejected on performance and quality. JH have started to replace air valves with a complying product.
- Work Package 18: Wyong River weir has now been completed.



WP 01 Intake Tower
(Work Package 1)

ATTACHMENTS

Nil.

5.4 Lake Munmorah Power Station

TRIM REFERENCE: F2004/06916 - D02807497

MANAGER: Lyn Littlefield, Team Coordinator

AUTHOR: Jane Doyle; Senior Administration Support Officer

SUMMARY

Submitting a response from the Hon Chris Hartcher, MP, Minister for Resources and Energy, Special Minister of State, Minister for the Central Coast dated 10 October 2011 in regard to the status of Lake Munmorah Power Station.

RECOMMENDATION

That Council receive the report on Lake Munmorah Power Station.

BACKGROUND

Council at its meeting held 8 June 2011, resolved *unanimously on the motion of Councillor Wynn and seconded by Councillor Best:*

"That Council reiterate its position requesting the closure of the coal fired power station at Lake Munmorah as soon as practicably possible."

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

Correspondence has now been received from the Hon Chris Hartcher, MP, Minister for Resources and Energy, Special Minister of State, Minister for the Central Coast which is attached.

ATTACHMENTS

- | | | |
|---|------------------------------------------------------------------------|-----------|
| 1 | Letter from Hon Chris Hartcher | D02801240 |
| 2 | Letter From General Manager dated 19 August 2011 to Hon Chris Hartcher | D02751179 |



The Hon Chris Hartcher MP
Minister for Resources and Energy
Special Minister of State
Minister for the Central Coast

2011/65474
MF11/5621

Mr Michael Whittaker
General Manager
Wyong Shire Council
PO Box 20
WYONG NSW 2259

Dear Mr Whittaker

Thank you for your letter of 19 August concerning the Munmorah power station.

I am advised that Munmorah power station is currently on standby and has not been in service since August 2010. In October 2010 Delta Electricity received approval for the rehabilitation of Munmorah Power Station, however the decision was appealed and is currently before the Land and Environment Court.

A Special Commission of Inquiry into Electricity Transactions is currently underway and is expected to hand down its findings to the Government by 31 October 2011. The Government will be guided by the findings of the commission including any recommendations relating to Munmorah.

Meanwhile, Delta Electricity assures me that the Munmorah power station is properly maintained in its current standby mode, and that environmental and safety risks are appropriately managed in accordance with its environmental management plans, environmental licences, safety requirements and regulatory obligations.

I am advised that on 31 May 2011, Delta Electricity agreed to conduct a site visit for you, the Mayor and the Deputy Mayor of Wyong Shire Council, to allay concerns regarding the condition of the site.

Thank you for bringing this matter to my attention.

Yours sincerely

The Hon Chris Hartcher MP
Minister for Resources and Energy
Special Minister of State
Minister for the Central Coast

10.10.11.

Ph: 02 9228 5289 | Fax: 9228 5721 | Mail: GPO BOX 5341, SYDNEY NSW 2001 | email: office@hartcher.minister.nsw.gov.au



DJI/Mr D Irving
F2004/06916

19 August 2011

The Hon Chris Hartcher, MP
Minister for Resources and Energy
Level 37 Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Minister

Over a substantial period and by way of numerous resolutions, Wyong Shire Council has raised its concerns regarding the ageing Munmorah Power Station. Council has expressed its concerns on behalf of residents and ratepayers about dust, noise and health challenges associated with coal-fired power stations. Council now seeks confirmation from the State Government on its future intentions for this power station.

At its meeting held on 10 November 2010, Council resolved:

"1 That Council *investigate* reports that the State Government through Delta Electricity is seeking to divest itself of the aging Munmorah Station with a view to retaining the soon to be upgraded Colongra portion. As this station was constructed in the mid 1960's and upgraded in the early 1980's, it is the most polluting power station and clearly the general site is significantly environmentally degraded."

As a result of this resolution, Council wrote to the then Premier of NSW (the Hon. Kristina Keneally M.P.) but did not receive a reply (copy attached).

At its meeting held on 23 February 2011, Council resolved:

- "1 That, after the State Election in March, Council request the relevant Minister to close the aging Lake Munmorah Power Station.
- 2 That Council receive the report on Request for NSW State Government to Close Aging Munmorah Power Station.
- 3 That Council request a full site inspection of both Lake Munmorah and Colongra Power Stations."

In response to Council's request for a site inspection of both Lake Munmorah and Colongra Power Stations, by letter dated 11 May 2011, the General Manager / Central Coast of Delta Electricity (Mr Glenn Sharrock) advised Council that "Currently operations at Munmorah are on standby, with the future of the power station to be determined by the NSW Government".

WSC-K:\CORRO2011\JUL\SENT TO GM AUG 8 - LETTER TO CHRIS HARTCHER RE LAKE MUNMORAH POWER STN CLOSURE.DOC1

Page 2
The Hon. Chris Hartcher MP

On 8 June 2011, Council further resolved:

- 1 That Council reiterate its position requesting the closure of the coal fired power station at Lake Munmorah as soon as practicably possible.

Accordingly, Council would appreciate your consideration of its concerns and advice regarding your government's intentions with regard to the future of Lake Munmorah Power Station.

Yours sincerely



Michael Whittaker
GENERAL MANAGER



7 December 2010

The Hon. Kristina Keneally M.P.
Premier
Ministerial Office
Level 39 Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Mrs Keneally

REQUEST FOR NSW STATE GOVERNMENT TO CLOSE AGING MUNMORAH POWER STATION

Wyong Shire Council wishes to raise its concerns regarding a call to close the ageing Munmorah Power Station. At the Ordinary Meeting of Council held on Wednesday, 10 November 2010, Council considered this issue and resolved as follows:

- 1 *"That Council investigate reports that the State Government through Delta Electricity is seeking to divest itself of the aging Munmorah Station with a view to retaining the soon to be upgraded Colongra portion. As this station was constructed in the mid 60s and upgraded in the early 1980s it is the most polluting power station and clearly the general site is significantly environmentally degraded.*
- 2 *That further residents and ratepayers of the Shire's north have endured dust, noise and health challenges associated with dirty coal generation it is with this understanding that Council seek to confirm the State's intention subject to confirmation, Council on behalf of our residents and ratepayers call on the State Government to demolish the aging Station and utilise the land for more conventional and environmentally friendly employment generating opportunities.*
- 3 *That Council request staff investigate appropriate notations to be attached to the Section 149 Certificate for the land associated with the Power Station to deal with the degraded and likely contamination issues associated with the site."*

In reference to Item 2 Council seeks to express its concerns on behalf of residents and ratepayers about dust, noise and health challenges, associated with dirty coal generation. Council also seeks confirmation from the State Government on its future intentions for the ageing Lake Munmorah Power Station. Council requests that the NSW State Government demolish this power station and utilise the land for more conventional and environmentally friendly employment generating opportunities. A letter has also been sent to Mr John Keller from Delta Electricity requesting a response to Item 1 of the above Council resolution.

Council would appreciate your consideration of its concerns and advice regarding your government's intentions.

Yours faithfully



5.5 Conference Attendance - Tidy Towns

TRIM REFERENCE: F2004/06466 - D02827904

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Monica Redmond; Administration Assistant

SUMMARY

Reporting approval in accordance with the WSC Facilities and Expenses Policy for Councillors, the attendance of Councillor Symington at the Tidy Towns Awards Event in Lithgow held on 4 – 6 November 2011.

RECOMMENDATION

- 1 That Council note the approval given by the Mayor and Acting General Manager for Councillor Symington and partner to attend the Tidy Towns Awards Event in Lithgow held on 4 – 6 November 2011.**
- 2 That Council note that reasonable expenses incurred by Councillor Symington and his partner in attending the above event will be reimbursed in accordance with the WSC Policy on Facilities and Expenses for Councillors.**

BACKGROUND

A request was been received from Councillor Symington and his partner to attend the Tidy Towns Awards Event in Lithgow on 4-6 November 2011.

Registration for the event was required by 1 November 2011, making it impractical to report the matter to Council for determination. Councillor Symington and partner's attendance at this event was approved by the Mayor and Acting General Manager in accordance with Clause E17 of the Council Policy on Council's Facilities and Expenses for Councillors.

WSC Facilities and Expenses Policy for Councillors provides that WSC will pay for attendance at a maximum of three conferences per year for each elected member and attendance at the annual NSW Local Government Association Conference.

Clause D10 requires that authorisation for attendance at conferences will be by Council resolution or when impractical, by approval of the Mayor and General Manager.

The policy requires that Council note the use of the authority delegated to the Mayor and GM.

Purpose of the Event

Tidy Towns, launched in 1981, continues to be the largest practical environmental program serving regional New South Wales. Around 130 cities, towns, villages and schools throughout the state participate in the annual program. Awards are presented each year for the overall Tidiest Town and a number of sponsored awards recognising issues such as heritage, waste, habitat protection and business partnerships.

STRATEGIC LINKS

Strategic Plan

Nil Impact.

Contribution of Proposal to the Principal Activity

Nil Impact.

Link to Community Strategic Plan

Attendance at the event will allow Councillor Symington to represent Wyong Shire at this event which aims to motivate, advocate support and celebrate a greener and sustainable NSW.

The benefits of participating in the Tidy Towns Sustainable Communities Award program will provide an opportunity to:

- Increase valuable media exposure for town and community projects in the Shire
- Link the Shire to a network of experienced community volunteers, support and funding resources across NSW
- Provide an independent assessment and report of the Shire's projects and achievements
- Celebrated community achievements and promotes them to relevant stakeholders.

Budget Impact

The costs payable under the policy are as follows:

Fee type	Councillor	Spouse or Partner
Registration including some meals and tours	\$165	\$165
Accommodation	\$350	Included in Councillor costs
Travel by car	\$280	Included in Councillor costs
Sustenance	\$80	-

CONSULTATION

Nil

GOVERNANCE

Councillors are encouraged to attend external work-related events/training that support and/or advance the interests of the community through Council.

CORPORATE RISKS

Nil Impact

CONCLUSION

Authority to attend the conference at Council's expense was provided by the Mayor and General Manager in accordance with the WSC Policy on Facilities and Expenses for Councillors.

The Policy further requires that the matter is reported to Council for information.

ATTACHMENTS

Nil.

5.6 Study Tour - Townsville City Council - The Strand Development - 23 and 24 October 2011

TRIM REFERENCE: F2010/00052 - D02815458

MANAGER: Gina Vereker, Director

AUTHOR: Paul Bowditch; Manager Place Management

SUMMARY

Reporting on the highlights and outcomes of the Study Tour to Townsville undertaken by Councillors and Senior Staff to inspect the development of The Strand foreshore.

RECOMMENDATION

That Council receive the report on Study Tour - Townsville City Council - The Strand Development - 23 and 24 October 2011.

INTRODUCTION

At its meeting held on Wednesday, 14 September 2011, Council resolved as follows:

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

- 1 That Council receive the amended report on Proposed Inspections and Briefings and endorse the recommended inspections and briefings.*
- 2 That Council authorise a brief study tour for interested Councillors and senior staff to Townsville City Council, recognising the similarities between the waterfront urban renewal that they have undertaken and what Wyong Shire Council is envisaging for The Entrance.*

FOR: COUNCILLOR EATON, GRAHAM, MCNAMARA, SYMINGTON, WYNN AND WEBSTER

AGAINST: COUNCILLORS BEST, MATTHEWS, MCBRIDE AND VINCENT"

On Sunday, 23 October 2011, 5 Councillors (The Mayor, Councillors Eaton, Matthews, Symington, Webster, and two Senior Staff members (Manager Land Use Planning and Policy Development and Manager Place Management) travelled to Townsville to inspect the development of the main foreshore area known as The Strand.

An informal inspection of The Strand was undertaken on the afternoon of Sunday, 23 October 2011 and a more formal and structured (guided) tour was undertaken on Monday, 24 October 2011 with various representatives from Townsville City Council. Some of these representatives were primarily involved in the original construction and ongoing maintenance and upgrade works. This guided tour provided an invaluable opportunity for Wyong

5.6 Study Tour - Townsville City Council - The Strand Development - 23 and 24 October 2011 (contd)

Councillors and staff to ask many questions directly to these experts and gain information relating to the various challenges and lessons learnt over the life of the project to date.

Representatives from Townsville City Council who hosted the two hour inspection tour included staff from Community Services, Parks Services, Development Infrastructure, Sustainability and the Project Manager. In addition to the above staff from Townsville City Council, the Mayor, Mr Les Tyrell OAM and Chief Executive Officer, Mr Ray Burton hosted a morning tea for Councillors and staff to answer any further questions.

An information kit was provided to each Wyong delegate on the development of The Strand which includes information on:

- 1 The features of the development.
- 2 General statistics.
- 3 Uses.
- 4 Economic and Social Impact Assessment.
- 5 Visitation.
- 6 Redevelopment History.
- 7 Budgets and funding sources.
- 8 Events.
- 9 Design and approval processes.
- 10 Environmental Management and Impacts.

A copy of the information kit is attached.

In addition to the data included in the information kit, Councillors were able to obtain other learnings from those present that may assist in future development opportunities in foreshore locations within Wyong Shire. These include:

Parking: Townsville City Council (TCC) under-estimated the popularity of the development and parking in the precinct is limited to on-street parking. Additional off-street parking is needed within the precinct.

Toilets: Similar to parking, additional toilet facilities should have been provided in the Precinct.

Theme: 'The Strand' was developed in one stage which enabled the creation of a common theme throughout the precinct for street furniture, public art, plantings and colours.

Materials: Wherever possible, stainless steel has been utilised in the construction of street furniture – this is a more sustainable option but not always practical when the use of colour is involved.

Street Furniture Mounting: The Strand contains many pieces of street furniture which is mounted using a method of either bolting the furniture onto concrete slabs or setting the furniture directly into concrete. TCC staff advised that in hindsight there are many situations furniture should have been bolted onto the concrete to allow for ease of maintenance and replacement.

Colours: TCC staff members strongly recommended the use of base colours to allow for easy colour matching in the future.

Graffiti and Vandalism: There was virtually no graffiti seen on the inspection of the 2.2km stretch of development. Staff advised that this is checked daily and removed by a staff member. Security (including CCTV) is used to reduce the incidents of vandalism.

Alternate Sources of Energy: Solar panels have been fitted to some of the buildings on The Strand wind rotors have also been installed to generate electricity for the precinct (although the wind rotors were severely damaged by Cyclone Yasi and were being repaired at the time of the inspection).

Commercial Buildings: On each of the three 'man-made' headlands created along The Strand, the Council has built several buildings that are leased out to private operators for restaurants, bars, cafes and ice cream parlours. During the inspection of The Strand on the Sunday afternoon, these leased businesses were extremely popular.

Therefore, taking into account the above, masterplanning town centre precincts within Wyong Shire should include the following:

- A clearly defined vision or theme for precinct.
- Use of sustainable materials for street furniture.
- Provision of adequate public facilities (eg, parking and toilets)
- Use of alternate energy sources.
- Consideration of design ongoing maintenance costs as part of the design procurement/construction process.

RIVERWAY PRECINCT

As a result of a suggestion from the Townsville CEO some delegates took the opportunity to also visit the Riverway Precinct at Thuringowa Central on Monday afternoon. The Riverway Precinct provides a combination of cultural, sports, leisure, commercial and residential activities. It contains two man-made swimming lagoons, the Riverway Art Centre, an Art Gallery and a sporting stadium. A copy of the information kit for the Riverway Precinct is also enclosed.

CONCLUSION

The Study Tour to Townsville to inspect the development of The Strand was considered to be a success. Council delegates obtained a valuable first hand insight into the challenges and benefits associated with the development of such a major foreshore recreational precinct. In addition to these insights, contacts with the relevant experts at Townsville City Council have now been established and can be utilised in the future should Council wish to develop similar areas (eg. in The Entrance).

ATTACHMENTS

1	Strand Information Kit	Enclosure	D02817526
2	Stand Navigator Final 2010 - Map	Enclosure	D02817524
3	Strand Navigator Final 2010	Enclosure	D02828527
4	Riverway Brochure 2010 Final	Enclosure	D02817500
5	Riverway Information Kit	Enclosure	D02817503

5.7 Outstanding Questions without Notice and Notice of Motions

TRIM REFERENCE: F2011/00027 - D02796934

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Administration Assistant

SUMMARY

Report on outstanding Questions without Notice and Notices of Motion.

RECOMMENDATION

That Council receive the report on Outstanding Questions without Notice and Notice of Motions.

ATTACHMENTS

- | | | |
|---|----------------------------------------------------------------------------------|-----------|
| 1 | Table of Outstanding Questions on Notice and Notices of Motion - 9 November 2011 | D02810926 |
|---|----------------------------------------------------------------------------------|-----------|

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
1	Environment and Planning Services	9.5 - Notice of Motion – Sea Level Rise Notification 1 <i>Write to all property owners affected by the State Governments sea level rise policies.</i> 2 <i>Text of the letter be endorsed by Council.</i>	24 February 2010 Cr Eaton / Cr Graham	Affected properties identified, waiting on Council's General Counsel to submit additional information for the report to be submitted to Council.
2	General Department - Major Projects	7.6 - Notice of Motion – Wamervale Town Centre Viability <i>Staff report on the viability of developing the 1,100 units proposed for Wamervale Town Centre and possible variation of proposed densities to ensure viable town centre development.</i>	12 May 2010 Cr Eaton / Cr Best	A consultant has been engaged and commenced work on the report responding to this question. A draft report is proposed prior to the end of this calendar year.
3	Environment and Planning Services	8.1 - Notice of Motion – Clause 14 Fund Improving Conservation Outcomes <i>Investigate and report back to Council on the best use of the Clause 14 (3) (b), funds for improving conservation outcomes.</i>	14 July 2010 Cr Wynn / Eaton	A briefing was held on 11 May 2011. This report to Council needs to be reviewed following the submission of the Natural Resources Management Strategy draft to Council. A Report is being prepared for the November 2011 round of meetings.
4	Community and Recreation Services	8.2 - Notice of Motion – Acknowledgement of the Darkinjung People <i>Defer this item to allow time to further consider this matter and receive further information.</i>	27 October 2010 Cr Graham / Cr Eaton	Councillor briefing has been postponed. A Councillor Business Update to be submitted in November to address the issue.
5	Community and Recreation Services	Q114/11 – Memorandum of Understanding with Department of Housing <i>Progress on the development of an MOU between Council and NSW Department of Housing Central Coast division regarding the affordable housing undertaking/initiative?</i>	23 February 2011 Cr Best	A meeting was held with representatives of Housing NSW on 5 July to discuss and finalise the MOU. The final draft MOU will now be forwarded to ET for endorsement.

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
6	Infrastructure Management	Q2/11 – Odour in Water at Chain Valley Bay North Residents in the Chain Valley Bay North area have reported that their town water smells “fishy”. Could Council staff please advise if there is any <u>link</u> between the recently reported manganese levels in the water and the fishy smell. If no <u>link</u> exists, could staff please advise what might be causing the fishy smell?	9 March 2011 Cr Vincent	Due to no specific location provided for the complaint, other than it was in Chain Valley Bay, Council's flusher cleaned the mains in Chain Valley Bay in April and could not find any problems which related to the particular request. Records since this date indicate no similar problem. A Councillor Business Update is being prepared.
7	Infrastructure Management	7.1 - Notice of Motion - Regional Push to Reinstate F3 Link 1 That Council form a whole of Government Regional Partnership to include Gosford City Council, Wyong Shire Council and appropriate Sydney Councils (if required), Central Coast State Government Members and Federal Government Members with a view to organising a deputation to raise this issue with the Federal Government. 2 That Council <u>urge</u> the Regional Partnership to take-up Mr Swan's offer to receive representation from the Central Coast Regional Partnership to have the F3 Link funding reinstated in the 12-13 budget.	25 May 2011 Cr Best / Cr Eaton	A letter has been issued to the Minister for Resources and Energy. A report will be submitted to Council once a response has been received. A follow up email has been sent from the General Manager to the Minister for Central Coast, Minister for Resources and Energy.

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
8	Environment and Planning Services	<p>6.5 - Notice of Motion - Destruction of Natural Environment and Indigenous Heritage at Norah Head</p> <p>1 That Council <u>acknowledge</u> the community groups that contribute to the highly successful phenomena of whale watching at Norah Head.</p> <p>2 That Council <u>request</u> the General Manager to provide a staff report on the resultant human impact on the natural environment around Soldiers Beach at Norah Head and the report should cover preliminary details of current and proposed initiatives available for Council's consideration in managing the escalating damage to the natural and indigenous heritage.</p> <p>3 That Council <u>request</u> the report be prepared in partnership with the appropriate agencies and indigenous community.</p> <p>4 That, upon consideration of the requested report, the local land council be <u>invited</u> to address the Council meeting.</p>	13 July 2011 Cr Best / Cr Vincent	This NOM has been put on the Environment and Natural Resources Work Programme and timing will depend on the availability within the works programme to undertake unallocated projects unlikely to occur prior to the 2nd quarter.
9	Infrastructure Management	<p>7.2 - Notice of Motion - Proposed Major Transport Infrastructure Projects</p> <p>That Council <u>request</u> the General Manager to arrange for the preparation of a report on the proposed major transport infrastructure projects of the M9 (F3 to F7) freeway, the fast rail and the second Sydney Airport.</p>	10 August 2011 Cr Eaton	<p>A meeting has been arranged for the relevant staff to discuss preparation of a scoping brief for the report.</p> <p>A consultant has been engaged to prepare a report for council. This project is now being managed by the Manager Major Projects.</p>

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
10	Community and Recreation Services	<p>U26/11 - Proposed Grant Application for the Wyong Skills Centre</p> <p>1 <i>That Council <u>note and endorse</u> the <u>funding application as submitted to the Federal Government's Community Infrastructure Grants – Youth Commitments Program for the development of the Wyong Skills Centre on Nos 18 – 20 Margaret Street, Wyong for \$2,985,000.</u></i></p> <p>2 <i>That Council <u>undertake an Expression of Interest process for partners to provide a suitable site and build and operate the Wyong Skills Centre.</u></i></p> <p>3 <i>That Council <u>consider a report on the outcome of the Expression of Interest process.</u></i></p> <p>4 <i>That Council <u>reaffirm the request for staff to investigate other larger suitable sites as possible locations for the Wyong Skills Centre.</u></i></p>	24 August 2011 Cr Symington	<p>Council has commenced the project planning required to implement the Expression of Interest process required by this resolution.</p> <p>The Expression of Interest has been advertised and closes on Thursday 6 October 2011. An assessment and recommendation will be undertaken by staff and then reported to Council.</p>
11	Corporate Services	<p>Q23/11 - Projected Additional Revenue Raised by Charging School to Utilise Sports Grounds</p> <p><i>"Could Council staff please advise on the projected additional annual revenue that will be raised by charging local schools to utilise Council's sports grounds and facilities?"</i></p>	24 August 2011 Cr Vincent	An answer to this question will be submitted to a Council meeting in November 2011.

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
12	Environment and Planning Services	<p>8.1 - Notice of Motion - Proposed Public Meeting - Coal Mining Projects</p> <p>1 <i>That Council <u>convene</u> a public meeting in late October 2011 for all residents from Doyalson to Wyeec Point to Gwandalan to discuss the extension and expansion of coal mining operations in the area and its implications for residents, the environment, infrastructure and Council operations.</i></p> <p>2 <i>That the public meeting be <u>held</u> in a central location in the north of the Shire.</i></p> <p>3 <i>That Council <u>invite</u> representatives from the coal mining companies to present their current proposals.</i></p> <p>4 <i>That Council <u>provide</u> staff to facilitate the public meeting and to outline Council's responses to the current proposals.</i></p> <p>5 <i>That Council <u>record</u> the issues raised at the public meeting and seek responses for the public from the coal mining companies involved.</i></p> <p>6 <i>That Council <u>invite</u> the State Members for Wyong, Swansea and Lake Macquarie and the Minister for the Central Coast to the public meeting</i></p>	14 September 2011 Councillor Wynn	Venue has been booked for 15 November 2011. Letters being prepared to go out to Associations and Precinct Committees.

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
13	Environment and Planning Services	<p>8.2 - Notice of Motion - Coal Seam Gas (CSG) Inquiry <i>That Wyong Shire Council:</i></p> <p>1 <i>Write and thank the State Government for banning the chemicals used in the tracking process.</i></p> <p>2 <i>Support the Coal Seam Gas (CSG) inquiry being undertaken by the NSW Legislative Council;</i></p> <p>3 <i>Call on the NSW Government to ensure the role of councils is adequately considered in dealing with CSG exploration and production; and</i></p> <p>4 <i>Calls on the government to institute a full moratorium on all forms of coal seam gas drilling until the environmental, social and health impacts have been rigorously and independently assessed.</i></p> <p>6 <i>Place a prohibition on coal seam gas exploration and mining in important bushland, valuable farmland, groundwater aquifers and public lands.</i></p>	14 September 2011 Councillor Wynn	<p>Letter being drafted in response to points 1, 3, 4 and 6 of the resolution.</p> <p>Point 2 of resolution - submission to enquiry has been sent.</p>
14	Community and Recreation Services	<p>8.3 - Notice of Motion - Sporting Ground Fees and Charges for Local Schools</p> <p>4 <i>That Council meet with the Regional Council of Parents and Citizens Association as soon as practicable.</i></p>	14 September 2011 Councillor Vincent	Report to be submitted to 23 November 2011 Council meeting.
15	Environment and Planning Services	<p>Q26/11 Pioneer Dairy <i>"Could staff provide a 'Councillor Update' on the current status of Wyong Shire Council in relation to the Pioneer Dairy Trust (community access / progress of site)?"</i></p>	Councillor McBride / 14 September 2011	Awaiting additional information from the Trust, Crown lands and Darren Webber before a CBU can be prepared.

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
16	Community Recreation Services and Community Services	<p>Notice of Motion - Tidy Towns</p> <p>1 That WSC <u>report</u> to Council on the interface between WSC, the community and Tidy Towns.</p> <p>2 That WSC <u>look</u> at the current model used with our Landcare volunteers to see if a similarly designed policy would achieve the right outcome for Council and the community.</p> <p>3 That a cost benefits analysis of supporting this program <u>be considered</u> as part of the report.</p>	Councillor Wynn / 12 October 2011	Initial Community consultation will be undertaken before the end of October.

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
17	Environment and Planning Services	<p>8.2 Notice of Motion - Development Applications for Retail Liquor Outlets & 8.6 Notice of Motion - Proliferation of Alcohol Outlets</p> <p>1 <i>That Wyong Shire Council make representation to the Crime Prevention Partnership Committee to establish a working party of this group to provide advice on any Development Application submitted for a Retail Liquor Outlet.</i></p> <p>2 <i>If the crime prevention partnership Committee group can not form a working party then Council will establish a licensed premises reference group comprising of:</i></p> <ul style="list-style-type: none"> a) Council Officers, including Rangers b) NSW Police Local Area Commander c) A NSW Office of Liquor and Gaming Representative d) Central Coast Area Health Representative <p>3 <i>That Council reject the further proliferation of alcohol availabilities through the recent push by the Australian Association of Convenience Stores to sell alcohol in local petrol stations.</i></p> <p>4 <i>That Council make formal representation on behalf of its residents and ratepayers to the current Productivity Commission's Inquiry into the industry's proposal with the grounds for objection to include but not limited to:</i></p> <p>.....(Please see minutes for complete resolution.)</p>	Councillor Wynn / 12 October 2011	<p>Investigations have been made with the Crime Prevention Partnership Committee in relation to Resolution 1.</p> <p>A letter is being prepared to address Resolution 3 and 4.</p>

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
18	Environment and Planning Services	<p>8.4 Notice of Motion - Joint Regional Planning Panel Representation</p> <p>1 That Council, noting its commitment to engaging the community in the development process and having regard to the State Government selection criteria applicable to all Panel members, <u>proceed</u> to invite expressions of interest from appropriately experienced and qualified members of the Community to be appointed as a Council representatives and alternative representatives on the Hunter/Central Coast JRPP. That Council note that the community representatives will replace the current Councillor and staff and Councillor Panel members.</p> <p>2 That Council <u>advise</u> the secretariat of the JRPP of those changes to its representation.</p> <p>3 That Council <u>remunerate</u> its delegates to JRPP meetings at the rate paid in most other Councils of \$650 per meeting.</p>	Councillor Wynn / 12 October 2011	Letters are currently being prepared.

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
19	Infrastructure Management	<p>5.1 Notice of Motion - Waste Levy Charges</p> <p>1 <i>That Council note with concern the continued State Government cost shifting and rate pegging and its effects on the social and economic status of the Shire.</i></p> <p>2 <i>That Council request the General Manager to formally request the NSW Minister for the Environment to amend the Protection of the Environment Operations (Waste) Regulation 2005, or whatever other mechanism is available, to ensure the following:</i></p> <p>a <i>Exemption from the payment of the waste and sustainability levy for the removal and/or disposal of mixed waste, ENM (Excavated Natural Material)and VENM(Virgin Excavated Natural Material),from Wyong Shire Council's road construction works at its Buttonderry Waste Management Facility.</i></p> <p>b <i>Return of 50% of the total annual Waste Levy paid by Wyong Shire Council for use on local road maintenance and environmental initiatives.</i></p> <p>c <i>Future Waste and Sustainability Levy increases being limited to the official CPI figure.</i></p>	Councillor Webster / 26 October 2011	<p>A letter will be drafted for the General Managers signature formally requesting that the NSW Minister for the Environment amend the Protection of the Environment Operations (Waste) Regulation 2005 to allow:</p> <ul style="list-style-type: none"> • levy exemption for ENM and VENM from Council's road works • return of 50% of the total levy paid by Council • cap future levy increases based on the CPI

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
20	Corporate Services	5.2 Notice of Motion - Central Coast Bears - Foundation Membership <i>That Council become a Foundation Member of the Central Coast Bears Rugby League Club.</i>	Councillor McNamara / 26 October 2011	Membership details currently being worked through with the Club.
21	Environment and Planning	5.3 Notice of Motion - Submission to the Planning System Review Committee 1 <i>That Council request the General Manager to make a submission to the planning system review committee highlighting problems with the current planning system including:</i> a <i>delays particularly with rezonings, but also with other government agencies,</i> b <i>uncertain outcomes even after land has been rezoned for development,</i> c <i>infrastructure provision including alternative funding mechanisms such as muni bonds,</i> d <i>more local flexibility, one size does not fit all,</i> e <i>more local authority, empowering council to make decisions on minor rezonings and rezonings in line with adopted strategic plans</i> f <i>cheaper, simpler system.</i> 2 <i>Council request the General Manager to schedule a briefing, in late January or early February, on the issues paper with a view to developing a Council submission to the issues paper.</i>	Councillor Eaton / 26 October 2011	Submission being prepared for the General Manager's signature.

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
22	Community and Recreation Services	<p>5.4 Notice of Motion - Reducing the Graffiti Canvas</p> <p>1 <i>That Council <u>note</u> with concern the escalating costs to Council and its ratepayers as a result of the local graffiti epidemic.</i></p> <p>2 <i>That Council <u>request</u> the General Manager to report on any emerging urban planning initiatives that may reduce graffiti on boundary fences in new subdivision areas which front public domain areas such as parks and reserves.</i></p>	Councillor Best / 26 October 2011	Report being prepared for the 23 November 2011 meeting.

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
23	Infrastructure Management	<p>5.5 Notice of Motion - Warnervale Key Road Project</p> <p>1 That Council note the completion of the 1.3 M upgrade and traffic light installation at the intersection of Warnervale and Minnesota Roads and the subsequent \$4.6 M reconstruction of the southern section of Minnesota Road.</p> <p>2 That Council request the General Manager provide a report detailing the traffic management initiatives that will be implemented during the construction phase to assist local residents and ratepayers.</p> <p>3 That Council note that as Minnesota Road is being completely reconstructed, closures and partial closures may be necessary, which will have a significant impact on movements in neighbouring Louisiana Road and particularly at the dangerous Pacific Highway intersection.</p> <p>4 That Council request the General Manager to seek urgent advice from the State regarding the measures proposed to minimise risk and increase safety at the Pacific Highway intersection.</p> <p>5 That Council recognise the efforts of the WSC Infrastructure Unit in delivering the much needed \$250,000 upgrade of Louisiana Road.</p> <p>6 That Council thank the local community for its patience and understanding throughout the period of construction of these important safety upgrade works.</p> <p>7 That Council request the General Manager to report on options and opportunities, including possible partnership with the State and Federal Governments, to upgrade Warnervale Road as a priority.</p>	Councillor Best/ 26 October 2011	Report being prepared for the 23 November 2011 meeting.

No	Department	Question Asked / Resolution	Meeting Asked/ Councillor	Status
24	Environment and Planning	6.1 Rescission Motion - Joint Regional Planning Panel Representation 3 <i>That Council advise the secretariat of JRPP of these changes to its representation.</i>	Councillor Eaton / 26 October 2011	Letter being drafted advising the JRPP of changes to its representation.
25	Community and Recreation Services	Q27/11 Shire Wide Security Contract - Relocatable Security Cameras <i>"Following the recent adoption of the Shire Wide Security Contract, can staff report on the status of, and the prioritised locations for, the installation of the re-locatable security cameras, that was adopted by resolution of Council in February 2011?"</i>	Councillor Symington / 26 October 2011	Assigned to Manager of Community and Cultural Development for action.

**QUESTIONS ON NOTICE AND NOTICES OF MOTION REMOVED SINCE 26 OCTOBER
2011**

	Department	Question on Notice / Notice of Motion	Date Asked/ Councillor	Status
1	Community and Recreation Services	9.1 – Notice of Motion – Registered Clubs	27 July 2011 Cr Graham	Letters sent on 30 September 2011.
2	Community and Recreation Services	8.5 - Notice of Motion – Vales Point Reserve	12 October 2011	The Grant funds will be totally expended. The project was amended in September 2011 to include additional works as the funding was not fully expended. The additional works were agreed to by the Precinct Committee and the funding body. Part 5 Environmental Assessments have been applied and received with approval for all works. An additional Part 5 Environmental Assessment has been lodged for the migration of stones. Currently a bi-weekly update is provided. A Monthly progress report regime for the Precinct Committee
3	Environment and Planning Services	9.3 - Notice of Motion - Council Calls for the NSW State Government to Legislate to Stop Coal Mining Beneath the Central Coast's Water Catchment in Dooralong and Yarramalong Valleys	27 July 2011 Cr Vincent	Relevant Letters have been issued and awaiting responses.
4	Infrastructure Management	U27/11 - Motion of Urgency – Improvement of Road Safety in Mannering Park	12 October 2011	This was reported to Council on 26 October 2011.

9 November 2011

To the Ordinary Meeting

Councillor

6.1 Notice of Motion - Assisting Community Events

TRIM REFERENCE: F2004/07830 - D02817901

AUTHOR: Doug Eaton; Councillor

Councillors Eaton and Best have given notice that at the Ordinary Meeting to be held on Wednesday 9 November 2011 they will move the following Motion:

“That Council as part of its new DLEP make smaller scale community events exempt development.”

RESOURCES

Small scale community events are currently exempt from obtaining development consent.

The basis for this is unrelated to the provisions of Council's current WLEP. Instead, small scale community events do not constitute “development” as defined under Section 4 of the Environmental Planning and Assessment Act 1979 (EP&A Act). Therefore these events are not “characterised” as a use of land and therefore do not require development consent.

On this basis, it is unnecessary to consider exempting small scale community events within the new DLEP. In fact, should Council wish to specifically exempt certain small scale community events from the need to obtain development consent, this may actually have the opposite effect.

Council would need to define what constitutes “small scale” and “community event”. In determining the parameters of such a definition it would be virtually impossible to capture all types of community events and all aspects of these events. Therefore, some events that now do not require consent would likely fall outside of the definition and therefore in the future need to obtain a consent.

It is this process that would require substantial staff resource in an attempt to develop the appropriate parameters and definition to incorporate in the DLEP. This is particularly so as there is no current definition for “community events” either in the current WLEP or in the Department of Planning and Infrastructure (DOPI) standard template. In addition both the definition, associated provisions and zones to which the provision would apply, would require staff resource in negotiations with the DOPI.

9 November 2011

To the Ordinary Meeting

Councillor

6.2 Notice of Motion - Popularly Elected Mayor - Referendum

TRIM REFERENCE: F2004/06511 - D02820554

AUTHORS: Greg Best; Councillor

Doug Eaton; Councillor

Councillors Best and Eaton have given notice that at the Ordinary Meeting to be held on Wednesday 9 November 2011 they will move the following Motion:

- "1 That Council reaffirm its previous decision to provide our residents and ratepayers the opportunity at the upcoming Council elections to also vote on whether they support a popularly elected mayor or not.*
- 2 That Council request the General Manager to report on any progress to date with regard to this issue and what further processes and time frames are required to achieve this outcome.*
- 3 That Council supports in principle conducting its own Local Government General Election in 2012 both to save money that can be better spent and to increase voter participation."*

RESOURCES

Item 1 - NA

Item 2 - Minor research required.

Item 3 – See report earlier on this business paper.

9 November 2011

To the Ordinary Meeting

Councillor

6.3 Notice of Motion - White Ribbon in Wyong, say NO to Domestic Violence

TRIM REFERENCE: F2004/06087 - D02820589

AUTHORS: Greg Best; Councillor

Doug Eaton; Councillor

John McNamara; Councillor

Bill Symington; Councillor

Lynne Webster; Councillor

Sue Wynn; Councillor

Councillors Best, Eaton, McNamara, Symington, Webster and Wynn have given notice that at the Ordinary Meeting to be held on Wednesday 9 November 2011 they will move the following Motion:

- "1 That Council note with concern that Wyong Shire is now approaching the highest level of domestic violence in NSW.*
- 2 That Council recognise the contribution already made by WSC staff to previous White Ribbon Events and the efforts of the Tuggerah Lakes Area Command in its endeavours to battle this unacceptable behaviour.*
- 3 That Council acknowledge that a more community wide, inclusive approach is needed to take a stand and reject this social scourge.*
- 4 That Council note that the upcoming White Ribbon Event/Program commences on November 25 2011 and continues for 16 days.*
- 5 That Council request the General Manager to review the request for assistance from the Tuggerah Lakes Area Command to resource the White Ribbon Event/Program.*
- 6 That Council encourage the community, individual Councillors and WSC staff to join the current 14,932 Australians who have pledged an oath of support to the White Ribbon Campaign."*

RESOURCES

Community and Cultural Development currently have representation on the Mens' Interagency- the coordinating body for the White Ribbon Day breakfast. In addition we provide white ribbons to council/community and partner groups where available. This year we will be supporting the activities by providing a variable message sign board promoting a 'no tolerance' to domestic violence message in partnership with the police. We have not received any additional requests from the Local Area Command for resources or assistance.

6.3 Notice of Motion - White Ribbon in Wyong, say NO to Domestic Violence (contd)

Projected costs:

Review resources/write report Staff hours 3 \$150

Community, Councillors and staff to pledge an Oath-
Resources: promotion \$2,000 Staff time: 6 hours \$300

9 November 2011

To the Ordinary Meeting

Councillor

6.4 Notice of Motion - Enforcement Policy for Control of Vehicles and Parking Around Schools

TRIM REFERENCE: F2004/00445 - D02821046

AUTHOR: Bill Symington; Councillor

Councillors Symington and Matthews have given notice that at the Ordinary Meeting to be held on Wednesday 9 November 2011 they will move the following Motion:

- "1 That Council request the General Manager to report on WSC's enforcement policy for the control of vehicles and parking around schools in Wyong Shire.*
- 2 That Council request the General Manager to include in the report:*
 - a Information including the guidelines, training and management directions provided to staff to ensure the balance between education of drivers, safety of children, and the issuing of Personal Infringement Notices.*
 - b Details in relation to the frequency of WSC staff being present at schools for enforcement purposes and the management triggers to allocate staff resources to undertake enforcement operations at a particular school."*

RESOURCES

The implementation of this NOM will be undertaken by existing staff within the Environment and Planning Services Department. It is not envisaged that any additional resources would be required. The response would entail the preparation of a report outlining the current parking enforcement strategy.

6.5 Notice of Motion - Independent Legal Advice

TRIM REFERENCE: F2009/00055 - D02821444

AUTHOR: Bill Symington; Councillor

Councillor Symington has given notice that at the Ordinary Meeting to be held on Wednesday 9 November 2011 he will move the following Motion:

"1 That Council propose an amendment to the WSC Policy on Facilities and Expenses for Councillors as follows:

Insert new clause:

- 1 A Councillor/s may be reimbursed up to \$1,500 (including GST) for external legal services only where all of the following circumstances exist:
 - (a) the legal advice is not on a matter excluded from being reimbursed by the Local Government Act and/or Regulations, or any other clause in this Policy; and*
 - (b) the matter about which advice has been sought is a serious matter affecting the proper administration of Wyong Shire Council; and*
 - (c) more than 4 Councillors have requested that Council staff provide legal advice on the subject matter of the advice, and Council staff have been unable to provide those councillors with legal advice, due to a conflict of interest or similar prohibition that precludes those staff from providing that advice, or where staff are unwilling to obtain independent legal advice; and*
 - (d) the matter had not already been the subject of independent legal advice to Council; and*
 - (e) the legal advice is proven to be valuable towards Council's decision making; and*
 - (f) no more than one payment is to be paid to any one or more of the councillors in respect to advice provided by councillors on the subject matter; and*
 - (g) the request for reimbursement, under this clause, has been authorised by the Council.**
- 2 The written brief, original written legal advice and tax receipt will need to be provided to Council as its record to allow consideration of payment.*

6.5 Notice of Motion - Independent Legal Advice (contd)

- 2 *That Council acknowledge that the proposed amendment is substantial and give public notice of its intention to amend its policy for the Payment of Expenses and Provision of facilities allowing 28 days for the making of public submissions.*
- 3 *That Council adopt the amended WSC Policy on Facilities and Expenses for Councillors should no significant objection be received to the proposed amendment.*
- 4 *That Council forward the amended policy to the Director General in accordance with Section 253 of the Local Government Act, 1993."*

RESOURCES

Item 1 – Not applicable

Item 2 – Standard public notification costs as part of WSC contract for advertising.

Item 3 – Not applicable

Item 4 – Not applicable

9 November 2011

To the Ordinary Meeting

Councillor

7.1 Rescission Motion - DA/1486/2010 Proposed Restaurant and Drive-Through Facility at Ourimbah

TRIM REFERENCE: DA/1486/2010 - D02826245

AUTHORS: Sue Wynn; Councillor

Lisa Matthews; Councillor

Doug Vincent; Councillor

Council, at the Ordinary Meeting held on 9 November 2011 gave consideration to a report regarding DA/1486/2010 Proposed Restaurant and Drive-Through Facility at Ourimbah.

At that meeting, Council resolved as follows:

- “1 That Council grant consent subject to the conditions, as amended, in the schedule attached to the report having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.*
- 2 That Council vary Development Control Plan 2005 Chapter 61 and 65 to permit the development.*
- 3 That Council delete, from the list of proposed conditions attached to the report, the second bullet point under Condition 11 – Landscaping Design Requirements which states:*

“The landscape architect is to nominate trees and shrubs that will provide a dense screen to the front of the property. The planting is to achieve tree heights greater than 10 metres and shrubs that will achieve a height greater than 2 metres upon maturity.”

A Rescission Motion has been received from Councillors Matthews, Vincent and Wynn to be moved at the Ordinary Meeting of Council to be held on Wednesday, 9 November 2011, as follows:

“MOVE that the following resolution carried at the Ordinary Meeting of Council held on 26 October 2011 be rescinded:

- 1 That Council grant consent subject to the conditions as amended in the schedule attached to the report having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.*
- 2 That Council vary Development Control Plan 2005 Chapter 61 and 65 to permit the development.*
- 3 That Council delete, from the list of proposed conditions attached to the report, the second bullet point under Condition 11 – Landscaping Design Requirements which states:*

“The landscape architect is to nominate trees and shrubs that will provide a dense screen to the front of the property. The planting is to achieve tree heights greater than 10 metres and shrubs that will achieve a height greater than 2 metres upon maturity.”

Should the above Rescission Motion be carried, further notice is given that Councillors Matthews, Vincent and Wynn will move the following motion:

“MOVE

- 1 *That Council grant consent subject to the conditions detailed in the schedule attached to the report having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.*
- 2 *That Council vary Development Control Plan 2005 Chapter 61 and 65 to permit the development.”*