



A graphic designer from Long Jetty has won a competition conducted by Council to create a design concept for our Wyong Shire Learning Community Strategy, which was adopted last year. James Bridge was announced the winner for his design that focused on the passing of information through verbal communication. Council is focused on developing Wyong Shire as a Learning Community. James is pictured with Lifelong Learning Manager, Sue Ellis.

Wyong Shire Council

Business Paper

ORDINARY COUNCIL MEETING

08 May 2013

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MEETING NOTICE

**The Ordinary Council Meeting
of Wyong Shire Council
will be held in the Council Chamber,
Wyong Civic Centre, Hely Street, Wyong on
Wednesday 8 May 2013 at 5.00 pm,
for the transaction of the business listed below:**

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

RECEIPT OF APOLOGIES

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6 QUESTIONS ON NOTICE ASKED

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

Michael Whittaker
GENERAL MANAGER

1.1 Disclosure of Interest

TRIM REFERENCE: F2013/00023 - D03339008

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

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

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

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

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

RECOMMENDATION

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

1.2 Proposed Inspections and Briefings

TRIM REFERENCE: F2013/00023 - D03331088

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Barbara Gardiner; Councillor Service Officer

SUMMARY

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

Time	Topic	Summary	Presented by
12.30 pm – 1.00 pm	Lifeguard Review (Confidential)	To report on lifeguard efficiencies, partnership with Surf Life Saving Australia and other options as requested at the Councillor Workshop held in February 2013.	Community and Recreation Services
1.00 pm – 1.30 pm	Local Government Review Planning Paper Report (Future Directions Consultation/Workshop)	WSC Response Local Government Independent Review – Future Directions for NSW Local Government – 20 Steps	General Manager's Unit
1.30 pm – 2.00 pm	Local Government Acts Taskforce	WSC Response – Local Government Act Task Force Discussion Paper	General Manager's Unit
2.00 pm – 3.30 pm	Draft LEP, Settlement Strategy and DCP	Briefing to provide an opportunity for Councillors to raise any issues with regard to the Council Report.	Land Management

Briefings proposed for future meetings of Council are attached.

RECOMMENDATION

That Council receive the report on Proposed Inspections and Briefings.

1.2 Proposed Inspections and Briefings (contd)

Title	Dept	Propose Month
Community Precinct Committees	Community and Recreation Services	
Urban Design Principles & Concepts	Land Management	June
RZ/7/2009 Chittaway road Rezoning	Land Management	June
Rezoning - 223 Scenic Drive Colongra	Land Management	June
Natural Resources Management Strategy	Land Management	September
Biodiversity Management Plan	Land Management	September
Customer Service Review	Community and Recreation Services	July
Long Jetty Masterplan	Land Management	June
Tuggerah Town Centre	Land Management	August
Affordable Housing Study - Councillor Workshop	Land Management	June
Lifeguard Review - CONFIDENTIAL	Community and Recreation Services	May
Central Coast Taxis	Land Management	June
Q3 2012/13	GM Unit	June
Bateau Bay and Lake Haven Draft Masterplan	Land Management	June
Proposed Works on Private Land	Infrastructure Management	June
Workshop - Proposal from the Local Govt Acts Taskforce	GM Unit	
Wallarah 2	Development and Building	June
Hunter Valley (Central Coast) Research Foundation	Land Management	June
High Speed Rail Study	Infrastructure Management	May
Draft DLEP, Settlement Strategy and DCP	Land Management	May

ATTACHMENTS

Nil

1.3 Address by Invited Speakers

TRIM REFERENCE: F2013/00023 - D03331112

MANAGER: Sonia Witt, TL Governance and Councillor Services

AUTHOR: Barbara Gardiner; Councillor Service Officer

SUMMARY

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

SPEAKERS	REPORT	PAGE NO	DURATION
Mr Bob Wilson, representing Toukley RSL Sub Branch (in favour of motion)	5.1 Notice of Motion – 1915 – 2015 ANZAC Centenary	259	5 mins

RECOMMENDATION

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

1.4 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2013/00023 - D03331182
MANAGER: Sonia Witt, TL Governance and Councillor Services
AUTHOR: Barbara Gardiner; Councillor Service Officer

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on Wednesday 24 April 2013.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 24 April 2013.

ATTACHMENTS

- | | | |
|---|--|-----------|
| 1 | MINUTES - Ordinary Meeting Meeting - 24 April 2013 | D03334034 |
| 2 | MINUTES - Confidential Ordinary Meeting Meeting - 24 April 2013 (Distributed under separate cover) (D03335150) | Enclosure |

WYONG SHIRE COUNCIL

MINUTES OF THE
ORDINARY COUNCIL MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 24 APRIL 2013
COMMENCING AT 5:00 PM

PRESENT

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

IN ATTENDANCE

General Manager, Director Development and Building, Acting Director Infrastructure and Operations, Acting Director Land Management, Director Community and Recreation Services, Communications and Marketing Coordinator and two administration staff.

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

Councillor Nayna read an acknowledgment of country statement and delivered the opening prayer.

Councillor Webster presented \$250 in prizes to the ANZAC creative writing competition winners;

- 11-14 yr olds Ms Holly Schwebel from Kanwal
- 15-18 yr olds Mr Daniel Snell from Ourimbah

The Mayor presented cheques to the 11 community groups from round 2 of the Community Benefits Grants Program totalling \$39,817.

APOLOGIES

An apology for the inability to attend the meeting was received on behalf of Councillor Matthews as she had family commitments and Councillor Taylor as he is on a family holiday.

RESOLVED unanimously on the motion of Councillor Eaton and seconded by Councillor Webster:

477/13 That Council accept the apologies and grant leave of absence from this meeting.

478/13 That Council grant leave of absence for Councillor Taylor from the Ordinary Meeting scheduled on 8 May 2013.

At the commencement of the ordinary meeting report numbers 1.1, 3.1, 6.1 1.4, 2.1, 2.2, 2.3, 3.2, 3.3, 6.2, 6.4, 6.6, 7.6, 7.7, 9.1, 9.2 and 10.1 were dealt with first then the remaining reports in order. However for the sake of clarity the reports are recorded in their correct agenda sequence.

1.1 Disclosure of Interest

Item 2.2 Mayoral Minute - Central Coast Mariners

Councillor Graham declared a pecuniary interest in the matter for the reason that he is a member on the Board of Directors of the Mariners Football Club, left the chamber at 6.19 pm, took no part in discussion, did not vote and returned to the chamber at 6.22 pm.

Item 3.1 DA/426/2012 - Proposed mixed use development comprising a residential flat building containing 109 units, a public library with ancillary cafe and an art gallery at The Entrance

Councillor Best declared a pecuniary interest in the matter for the reason that he is the Council representative on the Joint Regional Planning Panel (JRPP) and as this item was not referred to the JRPP participated in consideration of this matter.

Item 3.3 Precinct 7A - Warnervale and Hamlyn Terrace Rezoning Results of Public Exhibition

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

Councillor Nayna stated:

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

Item 6.6 Eraring Power Station - Report on Incident

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

Councillor Nayna stated:

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

Item 9.2 Notice of Motion - Stop Coal Mining in the Valleys

Councillor Eaton declared a non-pecuniary insignificant interest in the matter for the reason that he is a Council delegate to Central Coast Group Training (CCGT) which has a scholarship programme with Wallarah 2 and participated in consideration of this matter.

Councillor Eaton stated:

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

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

Councillor Nayna stated:

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

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training who host apprentices and trainees for Wallarah 2, left the chamber at 7.58 pm, took no part in discussion, did not vote and returned to the chamber at 8.31 pm.

Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that he is an employee at a local thermal power station and participated in consideration of this matter.

Councillor Vincent stated:

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

U2/13 Youth Employment Crisis

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training who is jointly tendering for the funds in question in this motion, left the chamber at 7.58 pm, took no part in discussion, did not vote and returned to the chamber at 8.31 pm.

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

Councillor Eaton stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I am a Council appointed delegate to CCGT."

Item 10.1 Mayoral Minute - General Manager's Performance Appraisal End of Year 2012-2013

The General Manager declared a pecuniary interest in the matter for the reason that it involves his employment contract, left the chamber at 8.52 pm, took no part in discussion, did not vote and returned to the chamber at 8.55 pm.

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

479/13 That Council receive the report on Disclosure of Interest and note advice of disclosures.

PROCEDURAL MOTION

RESOLVED unanimously on the motion of Councillor Nayna and seconded by Councillor Greenwald:

480/13 That Council allow meeting practice to be varied.

481/13 That Council use the exception method to deal with the balance of the Agenda.

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER

482/13 That with the exception of report numbers 1.4, 2.1, 2.2, 2.3, 3.1,3.2, 3.3, 6.1, 6.2, 6.4, 6.6, 7.6, 7.7, 9.1, 9.2 and 10.1 Council adopt the recommendations contained in the remaining reports.

1.2 Proposed Inspections and Briefings

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

483/13 That Council receive the report on Proposed Inspections and Briefings.

1.3 Address by Invited Speakers

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

484/13 That Council receive the amended report on Invited Speakers.

485/13 That Council agree meeting practice be varied to allow reports from Directors and/or the General Manager to be dealt with following an Invited Speaker's address.

1.4 Notice of Intention to Deal with Matter in Confidential Session

Councillor Vincent left the meeting at 6.11 pm and returned to the meeting at 6.13 pm and as a result took no part in voting.

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

486/13 That Council consider the following matter in Confidential Session, pursuant to Section 10A 2(a) of the Local Government Act 1993:

10.1 Mayoral Minute – General Manager's Performance Appraisal End of Year 2012/13

487/13 That Council note its reasons for considering item 10.1 – Mayoral Minute – General Manager's Performance Appraisal End of Year 2012/13 as it contains information concerning particular individuals (other than Councillors).

488/13 That Council request the Mayor to report on this matter in open session of Council.

1.5 Confirmation of Minutes of Previous Meeting

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

489/13 That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 10 April 2013.

Business Arising

There was no business arising.

2.1 Mayoral Minute - High Speed Train Study

RESOLVED unanimously on the motion of Councillor EATON:

490/13 That Council note the report issued into the feasibility of an east coast high speed train system.

491/13 That Council make a submission to the report that:

a Supports the Central Coast station location at Ourimbah for the reasons stated in the report and;

b Calls for the Newcastle to Sydney section to be the first stage as previously indicated and due to the significantly greater population benefitted by this section rather than the southern section.

492/13 That Council request the General Manager to direct staff to write to the Central Coast Regional Organisation of Councils (CCROC) and the Hunter Regional Organisation of Councils to make similar submissions as to the priority of the Newcastle to Sydney section and also request all Central Coast and Hunter State And Federal Members to make similar submissions.

2.2 Mayoral Minute - Central Coast Mariners

Councillor Graham declared a pecuniary interest in the matter for the reason that he is a member on the Board of Directors of the Mariners Football Club, left the chamber at 6.19 pm, took no part in discussion, did not vote and returned to the chamber at 6.22 pm.

RESOLVED unanimously on the motion of Councillor EATON:

493/13 That Council formally congratulate the outstanding success of the Central Coast Mariners Football Club in winning the 2013 Hyundai A-League Grand Final.

494/13 That Council authorise the General Manager to liaise with Westfield Tuggerah and Central Coast Football Association to host a community celebration at Westfield on a suitable weekend in May.

495/13 That Council recognise the success of the club and players and provide each player and coach an award for excellence in the form of a medallion for their outstanding achievements and their positive contribution to the Central Coast.

- 496/13 ***That Council request the General Manager to instruct staff to raise the Central Coast Mariners Football Club flag, for one month, commencing as soon as possible.***
- 497/13 ***That Council work with partners to promote the success of the Club and this event in their honour.***

2.3 Mayoral Minute - Trade Investment and Tourism Marketing

Councillor Troy left the meeting at 6:24 pm and returned to the meeting at 6:25 pm during consideration of this item.

RESOLVED on the motion of Councillor EATON:

- 498/13 ***That Council authorise the Mayor to execute agreements generally in the forms annexed hereto as Attachments 1-4, where it is impractical to gain prior Council approval subject to reporting such agreements to Council as soon as possible.***
- 499/13 ***That Council authorise, within budgets contained in the Council adopted four year delivery plan and annual plan for the preparation, printing, manufacturing and distribution of promotional and marketing material promoting Wyong Shire, its development sites and projects and its attractiveness for investment, trade and tourism. Such material may be written, electronic or on any appropriate media and maybe in various languages."***

3.1 DA/426/2012 - Proposed mixed use development comprising a residential flat building containing 109 units, a public library with ancillary cafe and an art gallery at The Entrance

Councillor Best declared a pecuniary interest in the matter for the reason that he is the Council representative on the Joint Regional Planning Panel (JRPP) and as this item was not referred to the JRPP participated in consideration of this matter.

Ms Helen Potter - Secretary Body Corporate, representing Atlantis Apartments, addressed the meeting at 5.30 pm, answered questions and retired at 5.33 pm.

Councillor Troy left the meeting at 5:40 pm and returned to the meeting at 5:42 pm during consideration of this item.

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

- 500/13 ***That Council receive the report on DA/426/2012 - Proposed mixed use development comprising a residential flat building containing 109 units, a public library with ancillary cafe and an art gallery at The Entrance.***

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

AGAINST: NIL

3.2 DA/12/2013 - Alterations and Additions to Create a Secondary Dwelling and Workshop at Hamlyn Terrace

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

- 501/13 *That Council grant consent subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.*
- 502/13 *That Council levy Section 94 contributions at the secondary dwellings reduced rate of 35% Development Unit.*
- 503/13 *That Council advise those who made written submissions of the decision.*

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

AGAINST: NIL

3.3 Precinct 7A - Warnervale and Hamlyn Terrace Rezoning Results of Public Exhibition

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

Councillor Nayna stated:

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

Councillor Greenwald left the meeting at 6:48 pm and returned to the meeting at 6:50 pm during consideration of this item.

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

- 504/13 *That the Precinct 7A Planning Proposal be revised to reflect the amended Structure Plan (see Attachment 2) and changes outlined in this report.*
- 505/13 *That the Precinct 7A Planning Proposal which includes LEP (Amendment No 184) be referred to the Minister for Planning and Infrastructure in accordance with Section 59 of the Environmental Planning and Assessment Act, 1979 with a request to make the plan.*
- 506/13 *That in accordance with Clause 21 of the Environmental Planning and Assessment Regulations, 2000, the amendment to the draft DCP 2005: Chapter No 98 – Warnervale South (See Attachment 7) be adopted and become effective upon the gazettal of the draft LEP (Amendment No 184).*
- 507/13 *That public notice of Council's decision to adopt DCP 2005: Chapter No 98 – Warnervale South be made within 28 days of this decision.*
- 508/13 *That Council advise those who made submissions of the decision.*

509/13 That Council delegate authority to the General Manager to undertake any amendments to the Planning Proposal and supporting documents.

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

AGAINST: NIL

MATTER ARISING

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

510/13 That Council write to the Minister for Transport and the Director General for Transport NSW advising them of Council's adopted plans for Precinct 7A and the need for the retention of the existing Warnervale Railway Station to service this extensive new residential community.

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

AGAINST: NIL

4.1 Acquisition of Land and Easements for Sewerage Infrastructure at Norah Head

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

511/13 That Council as Manager of Norah Head Recreation (R80256) Reserve Trust comprising Lots 7054 and 7055 DP 1071552, grant part of the Reserve Trust land for sewer rising main and an easement to drain sewage.

512/13 That Council acquire part of Lots 7054 and 7055 DP 1071552 being Norah Head Recreation (R80256) Reserve at Norah Head.

513/13 That Council acquire easements to drain sewage, generally 3m wide, over Lots 7054 and 7055 DP 1071552 (R80256) and Lot 639 DP 823764 at Norah Head.

514/13 That Council authorise the payment of compensation, if necessary, for the acquisition of the land and easements in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.

515/13 That Council proceed to compulsorily acquire the land and easements in the event that negotiations with the property owners cannot be satisfactorily resolved.

516/13 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Transfer and/or Plan and to any necessary applications to the Department of Primary Industries for the approval of the Minister and the Governor in order to proceed with the compulsory acquisition.

517/13 That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer and/or Plan and all documents relating to the applications to the Department of Primary Industries.

5.1 Evaluation and Selection of Tenders for Contract No CPA/209287 - Sewer Rising Main T19

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

- 518/13 That Council accept the tender from UEA Pty Ltd as Tenderer '2' in the attached Tender Evaluation Report for the lump sum amount of \$604,531 (excl GST) for Contract CPA/209287 – T19 Sewer Rising Main
- 519/13 That Council determines the Tender Evaluation Report in Attachment A remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.
- 520/13 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.

6.1 Dog Poo Bag Dispensers for Local Beaches and Shared Pathways

Councillor Best left the meeting at 5:43 pm and returned to the meeting at 5:44 pm during consideration of this item.

Councillor Graham left the meeting at 5:44 pm and returned to the meeting at 05:46 pm during consideration of this item

Councillor Best left the meeting at 5:45 pm and return to the meeting at 5.46 pm during consideration of this item.

Mr Tony Rothwell, resident, addressed the meeting at 5.43 pm, answered questions and retired at 5.46 pm.

It was MOVED by Councillor VINCENT and SECONDED by Councillor GREENWALD:

- 1 That Council note this report identifying additional and existing sites for the possible installation of dog faeces collection bag dispensers in appropriate high usage locations within the Wyong Shire, including costs and benefits.
- 2 That Council promote through the Shirewide Newsletter, Council's web page, and other local media, responsible removal of dog faeces from public areas by dog owners.
- 3 That Council trial providing 25 dog faeces collection bags in the 15 existing dog off-leash exercise areas for a period of six months.
- 4 That staff report back to Council on the trial after the six month period.
- 5 That staff identify budgetary savings to fund this initiative through the quarterly review.

An AMENDMENT was MOVED by Councillor NAYNA and SECONDED by Councillor BEST:

- 1 That Council note this report identifying additional and existing sites for the possible installation of dog faeces collection bag dispensers in appropriate high usage locations within the Wyong Shire, including costs and benefits.

- 2 That Council adopt option three outlined in this report.
- 3 That Council promote through the Shirewide Newsletter, Council's web page, and other local media, responsible removal of dog faeces from public areas by dog owners.

The AMENDMENT was put to the vote and declared CARRIED.

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

- 521/13 That Council note this report identifying additional and existing sites for the possible installation of dog faeces collection bag dispensers in appropriate high usage locations within the Wyong Shire, including costs and benefits.
- 522/13 That Council adopt option three outlined in this report.
- 523/13 That Council promote through the Shirewide Newsletter, Council's web page, and other local media, responsible removal of dog faeces from public areas by dog owners.

6.2 Councillor Local Project Fund - 2012/2013 Round 2

Councillor Greenwald left the meeting at 7.02 pm and returned at 7.03 pm during consideration of this item.

Councillor Greenwald left the chamber at 8.27 pm and did not return to the chamber.

RESOLVED unanimously by Councillor EATON and seconded by Councillor BEST;

- 524/13 That Council defer consideration of this item until the conclusion of the Open Session.

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

- 525/13 That Council allocate the following funds from the Councillor Local Project Fund – Round 2 2012/2013:

Project	Amount
Upgrade carpark at Warnervale Sports Field and Community Building	\$15,000
Re-deck jetty at Hargraves St, North Entrance	\$10,000
Install bench and picnic table parallel to Lake shoreline, Marine Pde Rocky Point	\$2,500
Install bench at beach access end Manly St, North Entrance	\$2,500
Install bench at beach access end Florida St, North Entrance	\$2,500
Install exercise equipment on shared pathway – Chittaway to The Entrance	\$15,000
Exercise equipment on shared pathway - North end of shire	\$10,000
Tree planting on the fence line bordering the housing	\$4,000

estate and community car park at Cutler Drive Wyong to reduce graffiti	
External signage and internal display improvements at Gwandalan library	\$1,000
Total	\$62,500

- 526/13 That Council note that unspent funds lapse as at 30 June 2013.
- 527/13 That Council delegate to the Mayor and the General Manager the power to complete the list of projects under the Council Local Project Fund.
- 528/13 That the Mayor and General Manager consult with individual Councillors to ensure their support and compliance with the Council policy.

6.3 Minutes of the Estuary Management, Coastal and Floodplain Management Committee held on 4 April 2013

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

- 529/13 That Council receive the Minutes of the Estuary Management, Coastal and Floodplain Management Committee held on 4 April 2013.
- 530/13 That Council endorse the committee's recommendations.

6.4 Draft Minutes of the 20 March 2013 Audit and Risk Committee Meeting

Councillor Vincent left the meeting at 7:04 pm and returned to the meeting at 7:07 pm and as a result took no part in voting.

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

- 531/13 That the Council adopt the minutes of Wyong Shire Audit and Risk Committee meeting held on 20 March 2013.

6.5 Delegation of Authority to General Manager

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

- 532/13 That Council confirm the current delegations to the General Manager as listed in the attached document.
- 533/13 That Council authorise this confirmation of delegations to be effective from 24 April 2013.

6.6 Eraring Power Station - Report on Incident

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

Councillor Nayna stated:

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

Councillor Vincent left the meeting at 7:04 pm and returned to the meeting at 7:07 pm and as a result took no part in voting.

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

534/13 That Council confirm the previous resolution:

"1 That Council receive the report on Eraring Power Station - Report on Incident."

7.1 Works in Progress - Water Supply and Sewerage

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

535/13 That Council receive the report on Works in Progress - Water Supply and Sewerage.

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

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

536/13 That Council receive the report on Activities of the Development Assessment and Building Certification and Health Units.

7.3 Investment Report for March 2013

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

537/13 That Council receive the Investment Report for March 2013.

7.4 Beachwatch Quality Assurance Program

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

538/13 That Council receive and note the report on Beachwatch Quality Assurance Program.

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

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

539/13 That Council receive the report on Results of Water Quality Testing for Beaches and Lake Swimming Locations.

7.6 Road Capital Works Program

Councillor Vincent left the meeting at 7:04 pm and returned to the meeting at 7:07 pm during consideration of this item.

Councillor Nayna left the meeting at 7:09 pm and returned to the meeting at 7:11 pm during consideration of this item.

Councillor Troy left the meeting at 7:11 pm and returned to the meeting at 7:12 pm during consideration of this item.

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

540/13 That Council receive the report on the status of the Council's Road Capital Rolling Works Program.

7.7 General Works in Progress

Councillor Graham left the meeting at 7:14 pm and returned to the meeting at 7:15 pm during consideration of this item.

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

541/13 That Council receive the report on General Works in Progress.

7.8 Outstanding Questions on Notice and Notices of Motion

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

542/13 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.

9.1 Notice of Motion - Urgent Employment Stimulus

Councillor Vincent left the meeting at 7:51 pm and returned to the meeting at 7:52 pm during consideration of this item

Mr Colin Wallace addressed the meeting at 7.19 pm, answered questions and retired at 7.33 pm.

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

- 543/13** That Council note with great concern the recent escalating national/local employment figures, particularly around the construction industry which underpins the Central Coast economy.
- 544/13** That Council recognise the need to be part of the national economic stimulus initiative by reviewing Council's development taxation structure/Section 94 Contributions.
- 545/13** That Council adopt a temporary stimulus plan which sets Developer Contributions (Section 94) at \$25,000 per block in the Contribution Plan 7A district for VPA's entered into before 30 December 2013, with construction of essential public infrastructure commenced to approved Council specification by 30 June 2014 with appropriate credit given for works in kind.
- 546/13** That Council authorise existing VPA's meeting the criteria above to be reduced to this level providing construction has not commenced.
- 547/13** That any VPA arising from this initiative be reported to Council.
- 548/13** That Council receive a report on this stimulus initiative as soon as practicable after 30 December 2013 and again after 30 June 2014.

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

AGAINST: NIL

9.2 Notice of Motion - Stop Coal Mining in the Valleys

Councillor Eaton declared a non-pecuniary insignificant interest in the matter for the reason that he is a Council delegate to Central Coast Group Training (CCGT) which has a scholarship programme with Wallarah 2 and participated in consideration of this matter.

Councillor Eaton stated:

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

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

Councillor Nayna stated:

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

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training who host apprentices and trainees for Wallarah 2, left the chamber at 7.58 pm, took no part in discussion, did not vote and returned to the chamber at 8.31 pm.

Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that he is an employee at a local thermal power station and participated in consideration of this matter.

Councillor Vincent stated:

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

It was MOVED by Councillor GRAHAM and SECONDED by Councillor VINCENT:

- 1 That Council reaffirm its previous position to oppose coal mining in the Central Coast's water catchment.*
- 2 That Council write to the Premier requesting the NSW State Parliament legislate to reject any future applications to mine coal in the Central Coast's water catchment.*
- 3 That Council direct the General Manager to write to the NSW Minister for Planning and the State Members expressing the Council's concerns regarding the lack of legislation to reject any future applications to mine coal in the Central Coast's water catchment and seek their support to change this situation.*
- 4 That Council request the General Manager write to the Prime Minister, calling on her support in opposing applications for coal mining in the central coast's water catchment and to expedite and support the passage of the private members bill (from the member for Dobell) presently before the Australian parliament.*
- 5 That Council commend the Australian Coal Alliance for their ongoing efforts in protecting the Central Coast's water catchment.*

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

That Council defer this matter for further information on:

- 1 State Parliament's ability to refuse the Wallarah 2 application.*
- 2 The details of the Member for Dobell, Mr Craig Thomson's private members bill and the likelihood of it lapsing with the proroguing of Parliament.*
- 3 Details of the new EIS for the Wallarah 2 proposal.*

The AMENDMENT was put to the vote and declared CARRIED.

FOR: COUNCILLORS EATON, NAYNA, TROY AND WEBSTER

AGAINST: COUNCILLORS GRAHAM, GREENWALD AND VINCENT

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

549/13 That Council defer this matter for further information on:

- a State Parliament's ability to refuse the Wallarah 2 application.***

- b The details of the Member for Dobell, Mr Craig Thomson's private members bill and the likelihood of it lapsing with the proroguing of Parliament.**
- c Details of the new EIS for the Wallarah 2 proposal.**

FOR: COUNCILLORS EATON, NAYNA, TROY AND WEBSTER

AGAINST: COUNCILLORS GRAHAM, GREENWALD AND VINCENT

LEAVE TO INTRODUCE A MOTION OF URGENCY

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

550/13 That Council consider a Motion of Urgency on the Youth Employment Crisis as the Federal Government has re-opened funding applications for skills centres for the third time and applications close on the 15 May 2013.

THE MAYOR RULED THAT THE MATTER WAS OF GREAT URGENCY AND COULD BE INTRODUCED AS A MOTION OF URGENCY.

U2/13 Youth Employment Crisis

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training who is jointly tendering for the funds in question in this motion, left the chamber at 7.58 pm, took no part in discussion, did not vote and returned to the chamber at 8.31 pm.

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

Councillor Eaton stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I am a Council appointed delegate to CCGT."

Councillor Greenwald left the chamber at 8.27 pm and did not return to the chamber and as a result took no part in voting.

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

- 551/13 That Council note with grave concern the ongoing Youth Unemployment Crisis within the Wyong Shire Local Government Area.
- 552/13 That Council note the 2010 Election Commitment from the Federal Government to fund \$2.7 million toward CCGT's/WSC joint Youth Skills and Business Development Centre.
- 553/13 That Council note with concern the government's decision to call for fresh tenders without requiring any auspicing by Wyong Shire Council.
- 554/13 That Council request The Prime Minister, The Hon Julia Gillard MP to immediately intervene and ensure the original 2010 election commitment for a joint CCGT/Wyong Shire Council is honoured.
- 555/13 That Council confirm its previous resolution to submit a combined tender for a joint CCGT/council project at Bounty Close Tuggerah.

PROCEDURAL MOTION

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

- 556/13 That Council meeting time be extended by 15 minutes, if required.

CONFIDENTIAL SESSION

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

- 557/13 That Council move into confidential session.

At this stage of the meeting being 8.47 pm council moved into Confidential Session with the members of the press and public excluded from the meeting of the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action is taken in accordance with Section 10a of The Local Government Act, 1993.

OPEN SESSION

Council resumed in open session at 8.50 pm and the Mayor reported on proceedings of the confidential session of the ordinary meeting of council as follows:

10.1 Mayoral Minute - General Manager's Performance Appraisal End of Year 2012-2013

- 558/13** *That Council approve the General Manager's end of year performance appraisal content for 2012/13 as attached.*
- 559/13** *That Council approve the agreed 3.4% remuneration increase as at 17 May 2013 (parity with rate capping increase and inclusive of SOORT increase) as per Clause 8.3 of the General Manager's contract and variation to schedule A of the General Manager's contract as attached.*
- 560/13** *That Council approve the Mayor to offer to the General Manager a five year contract from May 2015 to May 2020 using the standard Department of Local Government contract.*
- 561/13** *That Council approve attendance at the AICD conference in 2014 as part of personal development.*
- 562/13** *That Council determine the General Manager's objectives for 2013/2014 at a Councillor briefing in June.*

THE MEETING closed at 8.51 pm.

1.5 Notice of Intention to Deal with Matter in Confidential Session

TRIM REFERENCE: F2013/00023 - D03344825

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

SUMMARY

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

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

RECOMMENDATION

- 1 That Council consider the following matter in Confidential Session, pursuant to Section 10A 2(a) and (d) of the Local Government Act 1993:**
 - 6.1 Mayoral Minute – General Manager’s Contract**
- 2 That Council note its reasons for considering item 9.1 – Mayoral Minute – General Manager’s Contract as it contains information concerning particular individuals (other than Councillors).**
- 3 That Council request the Mayor to report on this matter in open session of Council.**

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

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

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

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

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

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

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

(iii) reveal a trade secret,

2(e) information that would, if disclosed, prejudice the maintenance of law,

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

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

2.1 CPA/203271 - Streambank Rehabilitation Detail Design and Investigation, Sites WY74 & WY82, Alison Road, Wyong

TRIM REFERENCE: CPA/203271 - D03305760

MANAGER: Gary Kinney, Project Director

AUTHOR: Tim Burch; Project Manager

SUMMARY

Report on variations incurred for Contract No. CPA/203271 – Streambank Rehabilitation Detail Design & Investigation, Sites WY74 & WY82, Alison Rd, Wyong.

RECOMMENDATION

- 1 That Council receive the report for Contract No. CPA/203271 – Streambank Rehabilitation Detail Design & Investigation, Sites WY74 & WY82, Alison Rd, Wyong.**
- 2 That Council note the additional expenditure against Contract No. CPA/203271 – Streambank Rehabilitation Detail Design & Investigation, Sites WY74 & WY82, Alison Rd, Wyong to the value of \$253,560.00 (excl GST), for variations approved to date under delegations as detailed in this report.**
- 3 That Council approve a revised Contract budget of \$262,560.00 (excl GST) for Contract No. CPA/203271 – Streambank Rehabilitation Detail Design & Investigation, Sites WY74 & WY82, Alison Rd, Wyong, which includes a contingency amount of \$9,000.00 (excl GST) for additional variations that may arise during the Contract as detailed in this report.**
- 4 That Council note that the additional expenditures are within approved program budgets.**

BACKGROUND

In October 2011, a tender was advertised for a suitably qualified and experienced Consultant to further investigate options to stabilise and rehabilitate the banks at sites WY74 & WY82. The scope of works required the Consultant to develop Concept Designs, prepare Detailed Design Plans suitable for Construction, accompanying design reports, cost estimates and technical specifications that would be used to accompany a future tender for the works. Further the Consultant was also required to undertake an Environmental Impact Assessment (EIA) of likely impacts on the environment of the adopted design.

TENDER PROCESS AND AWARD

The procurement strategy included selective invitation of tenders from the following four consultants given the anticipated cost was <\$150K:

2.1 CPA/203271 - Streambank Rehabilitation Detail Design and Investigation, Sites WY74 & WY82, Alison Road, Wyong (contd)

- Brown Consulting
- Cardno
- Coffey Partners
- WorleyParsons

Brown Consulting did not submit a bid.

Based on the evaluation criteria, WorleyParsons (WP) was deemed by the Tender Evaluation Panel to be the preferred consultant for the work. Their \$148 030 lump sum tender for the works was subsequently approved by the Director Infrastructure & Operations (IO) under delegation with a letter of acceptance sent 22/11/2012.

The procurement strategy including tender evaluation criteria was outlined in the Contract Development Plan approved by the Director IO (Trim: D02799183).

Details of the tender evaluation can be found in the Tender Evaluation report approved by the Director IO (Trim D02844170)

APPROVED VARIATIONS TO DATE

To date fourteen (14) variations have been approved under delegations for the contract as follows:

Variation No.	Description of Works	Value of Works Approved	Revised Contract Value	Approval
1	Additional geotechnical investigation was undertaken within river at WY82 to ascertain bedrock levels. This was necessary to ensure stability of structure being designed. Outcome was a cost saving on the embedment depth of wall into rock as analysis showed bedrock did not fall away as was assumed prior to investigation	\$17,990	\$166,020	Director IO (refer T181-#1 Trim: D03023164)
2	Constructability Meeting. This variation included for the preparation and attendance at a Constructability meeting by WPs senior Structural engineer and a Principal Engineer from J K Geotechnics (formerly Jefferey & Katauskas). The meeting was not included in the original scope of works (allocated meetings), but was necessary to address constructability/design issues at WY82 and finalise the design. Beneficial outcome was the meeting expedited the completion of design, tender and potential construction start date	\$3,330	\$169,350	Director IO (refer T181-#2 Trim D03051574)
3	Preparation Alternative Cantilever	\$5,480	\$174,830	Director IO (refer T181-#2 Trim

2.1 CPA/203271 - Streambank Rehabilitation Detail Design and Investigation, Sites WY74 & WY82, Alison Road, Wyong (contd)

	Design and Traffic Management Plan (TMP). This variation covered the preparation of an additional cantilever wall design option at WY82 to attempt to save costs. The original scope only required two concept options be prepared and this was considered a third. The preparation of the TMP was necessary to assess impacts of construction on traffic which was not foreseen when earlier design options were prepared and was not included in the design consultants tender. Both works allowed Council to make an informed decision on the preferred design option and methodology to manage traffic			D03051574)
4	Additional 7 Part test. This variation covered the cost for an ecologist to undertake the necessary Environmental Impact Assessment (EIA) for the proposed works at WY82. This was necessary given the original Review of Environmental Factors (REF) did not adequately cover environmental issues for the new wall design which was a significant departure from the original design. The design consultant had relied on the REF only requiring amendment but no field works in their tender. This work allowed Council to adequately complete the EIA and obtain a Part V approval for the works	\$1,520	\$176,350	Director IO (refer T181-#2 Trim D03051574)
5	Additional Stability Analysis for Construction Loads. This variation was for additional analysis undertaken by the geotechnical engineer to identify appropriate construction equipment required to build the wall and safe setback distances. The analysis was never considered in the design consultants tender or detailed in the brief as the geotechnical investigation results were not known at the time and the issue was never considered to have been a critical issue as the results of the geotechnical analysis have gone on to confirm. The works have resulted in safe working distances being determined which were provided to tenderers to ensure there is not a bank failure during	\$6,990	\$183,340	Director IO (refer T181-#2 Trim D03051574)

2.1 CPA/203271 - Streambank Rehabilitation Detail Design and Investigation, Sites WY74 & WY82, Alison Road, Wyong (contd)

	construction			
6	Includes preparation of correspondence and attendance at meeting with Jemena for works on the WY74 site. This was required because it was brought to Council's attention (who drew to WP's attention) late in the design phase that a licensed pipeline easement exists at WY74, across which works are proposed. Jemena is required to provide formal approval for any works that occur over their easement and they sought information from Council on this matter. WP undertook additional works outside of their scope of works in the contract. The variation was necessary as the easement was not identified by Council or on plans given to WP at time of engagement.	\$2,610	\$185,950	Director IO (refer T181-#3 Trim D03098630, & Email dated 14/08/2012, Trim D03099189)
7	Includes preparation of plans, design report, revised EIA assessment and hydraulic assessment for low cost timber pier rock revetment option for WY82 site. This is in response to construction tenders being received for the previous secant pile wall design which significantly exceeded WP's pre tender estimates. The variation was necessary as the works are considered to be beyond the original scope of works. Variation was sought to save costs and time that would be required to engage a new design Consultant, which was supported by GM at 18/07/2012, site meeting. WP also attended a workshop with their geotechnical engineer gratis.	\$34,000	\$219,950	Director IO (refer T181-#3 Trim D03098630, & Email dated 14/08/2012, Trim D03099189)
8	Dynamic Cone Penetrometer (DCP) Testing. This variation included for a site inspection by the geotechnical engineer to undertake DCP testing and report on the results at WY74. The geotechnical consultant was concerned about a potential failure of the as-built works along the plane of a layer of mud at the bottom of the river. The analysis was never considered in the design consultants tender or detailed in the brief as the geotechnical investigation results were not known at the time and the issue was never considered to have been a critical issue. The works have	\$3,130	\$223,080	Director IO (refer T181-#4 Trim D03220129 & EMP Manager (Trim D03140103)

2.1 CPA/203271 - Streambank Rehabilitation Detail Design and Investigation, Sites WY74 & WY82, Alison Road, Wyong (contd)

	resulted in confirming the design assumptions were correct, and construction methodology is satisfactory to proceed. By approving the additional testing Council is also ensuring that the risk and liability associated with the design is being retained by the Consultant who will sign off on the design.			
9	Basalt Testing. This variation included for a site inspection by the geotechnical engineer to undertake proof roll testing of basalt backfill capping and confirm the selection of a clay source is adequate for use at WY74. Inspections by a geotechnical engineer were never included in the design consultant's tender as the form of the constructed works could not be determined at that time. The works have resulted in confirming the design assumptions were correct, and the construction methodology is satisfactory to proceed. By approving the additional inspection Council is ensuring that the risk and liability associated with the design is being retained by the Consultant who will sign off on the design. A clay stockpile at Mardi Dam can also now be used which will lead to considerable savings on the project.	\$1,820	\$224,900	Director IO (refer T181-#4 Trim D03220129 & EMP Manager (Trim D03152652)
10	This variation included for a site inspection by the geotechnical engineer to undertake proof roll testing of the clay backfill materials and confirm the compaction requirements at WY74. Inspections by a geotechnical engineer were never included in the design consultant's tender as the form of the constructed works could not be determined at that time. The works have resulted in confirming the design assumptions were correct, and the construction methodology is satisfactory to proceed. By approving the additional inspection Council is ensuring that the risk and liability associated with the design is being retained by the Consultant who will sign off on the design.	\$1,820	\$226,720	Director IO (refer T181-#4 Trim D03220129 & EMP Manager (D03220077)
11	This variation included for additional DCP testing from a boat by a geotechnical engineer at WY82 to	\$10,000	\$236,720	Refer T181-#5 Trim D03220129 & Director IO Approval

2.1 CPA/203271 - Streambank Rehabilitation Detail Design and Investigation, Sites WY74 & WY82, Alison Road, Wyong (contd)

	confirm a critical slope stability parameter. The variation was necessary to obtain additional information on the characteristics of the bank materials which the designers required to input into their slope stability model to confirm the feasibility of the low cost timber pile retaining wall option. Had the testing not been completed the viability of the design would not have been able to be confirmed and Council would have been faced with either walking away from a design that significant money had been invested in or pursuing more expensive options, or proceeding with a design that could not be certified by a third party. The beneficial outcome was the results came back favourably and Council was able to proceed to construction with a low cost option which in the long term would be certified, save Council money and provide bank stability and asset protection on a critical section of river bank. The variation in scope of work was never included in the original scope of work or could ever have been identified as necessary until detailed modelling became necessary as the sensitivity of the slope stability parameter became evident.			given in email Trim D03229392
12	This variation included an assessment of the structural adequacy of steel piles as a suitable alternative to timber piles at WY82. The variation came about because of the additional costs and delays (several months) faced by Contractors to procure and supply timber piles. The beneficial outcome was that the assessment concluded that steel piles could be used and construction was able to proceed in a timely manner so as to not jeopardize EMP funding that was required to be used up by the end of the 2012/2013 FY.	\$5,500	\$242,220	Refer T181-#6 Trim D03310930 & Director IO Approval given in email Trim D03253262
13	This variation included for a site inspection by the geotechnical engineer to inspect the first pile installation at WY82. Inspections by a geotechnical engineer were never included in the design consultant's tender as the form of the constructed works could not be determined at that time. The inspection has confirmed	\$2,640	\$244,860	Refer T181-#6 Trim D03310930 & Director IO Approval given in email Trim D03306413

2.1 CPA/203271 - Streambank Rehabilitation Detail Design and Investigation, Sites WY74 & WY82, Alison Road, Wyong (contd)

	the design assumptions were correct, and the construction methodology is satisfactory to proceed. By approving the additional inspection Council is ensuring that the risk and liability associated with the design is being retained by the Consultant who will sign off on the design.			
14	This variation included for additional design and investigation by WP to prepare and certify a design for the extension of the pile retaining wall an additional 8m downstream to stabilize an existing timber retaining wall which is in poor condition and susceptible to failure. By approving the work and proceeding with the extension Council is addressing the risk that the wall may fail in the short term requiring urgent works at greater cost to rectify or repair utilities that may become damaged when the wall fails. The variation also allowed for WP to review the existing design in light of this extension and determine whether any design modifications could be made over the section of pile retaining wall in the vicinity of the timber retaining wall to realise any savings.	\$8,700	\$253,560	Refer T181-#7 Trim D03327065 & Director IO Approval given in email Trim D03327062

FUTURE VARIATIONS

Given WorleyParsons tender included for a limited number of inspections throughout construction, and did not provide for any geotechnical testing or inspections during construction (as the scope of works could not be defined at the time of tender), it is likely there will be future inspections and therefore future variations against the contract if Council continues to require certification of the As-Built works. This is recommended given the value of the works, monies invested in design, and potential liabilities or costs associated with rectifying damage, or claims made against persons or property if the constructed works were to fail.

Allowing for three (3) additional site visits during the course of works at \$3,000 per visit, a high level estimate of future costs is \$9,000 and a revised total contract cost is estimated at \$262,560.

Assuming no other unforeseen significant variations are incurred, it is considered the cost of future variations for site inspections and testing can be accommodated within the existing project estimate of \$2,500,000, and associated funding provision within Council's Estuary Management Plan (EMP) and Roads and Drainage (R&D) CapEx.

CONCLUSION

It is common practice for consultants to be prescriptive in their tenders, regardless of how briefs are worded in order to limit meetings, site inspections and investigation into options to a finite number. Consultants reserve the right to recover the costs for additional time spent attending additional meetings, undertaking site inspections or pursuing other alternatives beyond what has been allowed in the tender or agreed to by Council. For WY82 Council staff requested additional meetings and alternatives be considered to expedite the design phase and realise potential savings.

Both sites have proven to have severe geotechnical constraints which only became apparent upon completion of preliminary investigation works allowed for under the tender that might normally have been adequate for other sites. This necessitated additional geotechnical investigation and analysis that could never have been foreseen at the time of tender and prior to the preliminary investigation being completed.

For these (streambank rehabilitation) types of projects a number of alternative design options may arise during investigation, and the built form can not be easily determined or foreseen during the tender phase by the design consultancy. It is common for consultants to also limit or exclude quality inspections during construction necessary to certify the As-Built works as it can not be determined at tender phase what quality controls would be required.

In simple terms, Council has required a significant design life for these works, and sought certification for the works. This may be a conservative approach on Council's part however the geotechnical engineer has indicated there are severe geotechnical constraints at both sites, and failure to undertake additional investigations, or construct and certify in accordance with the design could result in mass failure of the embankments. Further, Council has already invested significant amounts of money in the design and construction for these sites and Council could be exposed to significant liabilities or costs associated with rectifying damage, or claims made against persons or property if the constructed works were to fail.

A significant contingency needs to be allowed for in the budget to accommodate the additional investigation, inspections and testing of the As-Built works that might be required by the design Consultant.

The additional costs incurred under this project are considered in part due to the risk averse nature of both WorleyParsons and their geotechnical consultant J K Geotechnics. At all times these costs for additional design, investigation, inspection and testing have been considered in terms of the overall cost of the project and the risks to Council if such testing and certification was not carried out.

ATTACHMENTS

Nil.

2.2 CPA/219153 - Construction of Timber Pile Retaining Wall at Alison Rd, Wyong

TRIM REFERENCE: CPA/219153 - D03325051

MANAGER: Gary Kinney, Project Director

AUTHOR: Tim Burch; Project Manager

SUMMARY

This report details the negotiations and contract awarded for Contract No. CPA/219153 - Construction of Timber Pile Retaining Wall at Alison Rd, Wyong.

RECOMMENDATION

- 1 That Council receive the report on Contract No. CPA/219153 – Construction of Timber Pile Retaining Wall at Alison Rd, Wyong.**
- 2 That Council determines the report in Attachment A remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.**

BACKGROUND

Tenders were received in December 2012 for the construction of a timber retaining wall at Alison Road, Wyong. A Tender Evaluation report was prepared and presented to Council at the General Ordinary Meeting 23 January 2013 (Trim D03232371).

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

- 30/13 That Council declines to accept any of the tenders received for Contract CPA/219153 – Construction of Timber Pile Retaining Wall at Alison Rd, Wyong.*
- 31/13 That Council determines the Tender Evaluation Report in Attachment A remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.*
- 32/13 That Council declines to invite fresh tenders for the reasons detailed in the attached Tender Evaluation Report.*
- 33/13 That Council authorise the General Manager to enter into negotiations with the companies nominated as Tender No.3 & Tender No.5, for the reasons detailed in the attached Tender Evaluation Report, with a view to entering into a contract in relation to the subject matter of the tender.”*

2.2 CPA/219153 - Construction of Timber Pile Retaining Wall at Alison Rd, Wyong (contd)

The attached Confidential report (Attachment A) addresses Resolution 4 above, and summarises the negotiations that took place following the 23 January 2013 meeting and the decision made by the General Manager to award a contract to Tender No. 3 for the construction of a retaining wall formed using hollow steel piles.

ATTACHMENTS

- | | | |
|----------|--|------------------|
| 1 | ** Confidential Attachment A Report - CPA/219153 - Construction of Timber Pile Retaining Wall at Alison Rd, Wyong - | D03325069 |
|----------|--|------------------|

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

TRIM REFERENCE: CPA/125834 - D03316809

MANAGER: Robert Fulcher, Manager Asset Management

AUTHOR: Julie Vigar, Project Support Officer

SUMMARY

This report seeks approval to an extension of time to CPA/125834 – Provision of Effluent and Sludge Removal Services, to provide a reasonable time period to facilitate and implement proposed changes to Council services and operations related to effluent and sludge removal.

RECOMMENDATION

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

BACKGROUND

There are two general types of on site sewage treatment tanks. The older type stores both liquid and solid waste (effluent) in the tank. The tank needs to be emptied regularly. The other type disposes of liquid waste by means of on site absorption areas and disposes of solid waste (sludge) by occasional sludge removal.

There are currently 50 premises with the older type tanks, representing domestic, commercial and Council owned premises, which receive a regular fortnightly (or more frequent) pump out service, by a Contractor to Council, from the collection well of a septic tank.

Additionally, there are approximately 3000 premises, generally in rural areas, connected to either on-site septic tanks or aerated waste treatment systems (AWTS) that use an absorption area, which may require periodic sludge removal services.

The current effluent and sludge removal and disposal contract for Wyong Shire Council is held by Remondis Australia Pty Ltd. This contract started on 7 September 2007 and was originally held by Thiess Services Pty Ltd until 28 November 2012. It was novated to Remondis Australia Pty Ltd as part of the company takeover.

New tenders were sought for the provision of effluent services in July 2012.

At the Ordinary General Meeting of 12 December 2012, in order to pursue a joint proposal with Gosford City Council, Council resolved unanimously to decline to accept any tenders, to cancel the proposal for the new contract and approve an extension of the existing contract with Remondis Australia Pty Ltd up to 30 June 2013.

In January 2013 Council investigated whether a joint tender and contract arrangement with Gosford City Council would achieve economies of scale and be jointly beneficial to both parties. On the basis of the joint assessment, a joint tender and contract arrangement was not recommended.

It was determined that no advantage to Wyong Shire Council would be achieved by undertaking a joint tender exercise. Gosford City Council has a higher risk profile due to property access issues as well as additional contract administration and operational requirements.

CURRENT STATUS

Domestic effluent pump out services are provided to properties by a contractor to Council, with the cost for the service set in the Strategic Plan Fees and Charges. The charge of \$1,067.61 for 2012/13 entitles the ratepayer/resident to a regular fortnightly service. The rate per service charged by Council and collected from the ratepayer annually is \$41.32 however the current charge of this service by the Contractor is \$52.55 per service. Council is currently subsidising the cost gap for this service from revenue in the sewerage fund.

The contractor services Council owned properties and commercial properties at a frequency determined by Council's representative, and charges a rate of \$15.81 per kilolitre for effluent removal and disposal services. The rate currently set out in the Strategic Plan for this service is \$13.69 per kilolitre. Council is subsidising the cost gap for this service from revenue in the sewerage fund.

Sludge removal and disposal services from septic tanks and aerated wastewater treatment tanks (AWTS) in rural areas are provided by the contractor on an as required basis. The contractor charges a rate set out in the Strategic Plan Fees and Charges of \$299.49 for sludge removal from septic tanks with the capacity of up to 2,750 litres and \$388.56 for sludge removal from septic tanks and AWTS systems that exceed 2,750 litres. The Contractor handles all bookings and collects all the fees applicable for this service. There is also a cost gap for the provision of this service. In this instance the contractor credits Council as the contractor's tendered rates are less than the approved charges for this service set out in the Strategic Plan.

Clearly the current system needs review.

In its latest funding determination, IPaRT decided to not regulate the fees associated with effluent and sludge removal and disposal service. As a result, the Directors of Infrastructure and Operations and Development and Building requested a review of how this service is conducted.

An investigation of all domestic, commercial and council owned sites currently being serviced by the contract has disclosed that of the 32 domestic sites, 21 sites are within close proximity of sewer services and at appropriate levels for connection. Of the 11 commercial sites currently being serviced by the contract, 5 sites are within close proximity of sewer services. Concerted efforts should be made to have these sites connected to the sewer. Once they are there will only be 17 sites that need the effluent and sludge removal service. It is proposed that council should withdraw from its direct involvement in these services and leave it to the owners to arrange the service directly with their preferred contractor.

THE PROPOSAL

It is proposed to extend the current contract for the provision of effluent and sludge removal and disposal services with Remondis Australia Pty Ltd until 31 December 2013. The proposed extension of time is considered reasonable in order to give notice of and facilitate the proposed changes to Council's services and operations.

Because of the proposed changes to how the service operates, it is proposed to offer an incentive to encourage those domestic and commercial sites identified within close proximity to sewer services to connect. A proposed incentive to ratepayers is to offer a payment plan for the sewer contribution charge. It is proposed that this incentive be a one time offer by Council, terminating on 31 December 2013.

The sewer contribution (i.e. connection) charge is a one time charge based on geographical location and varies in cost across the Local Government Area from approximately \$1,200.00 up to \$4,000.00. Once connected to Council sewer services the annual sewerage charge to the ratepayer is \$516 per annum. Should the ratepayer not take advantage of the incentive offered by Council, the fortnightly cost of effluent and sludge removal and disposal services would be approximately \$1,500 per annum, without the Council subsidy. The cost gap between the annual sewer charge and the estimated cost of the fortnightly service is about \$1,000 per annum. Over a period of two to four years the ratepayer would recover the cost of the sewer contribution charge.

Rather than continue with the current arrangement for the remaining sites where connection to Council's sewer services is not readily available, it is proposed that Council would provide the property owners a list of contractors with the capacity to provide effluent and sludge removal and disposal services to domestic and commercial users. The owners can then deal directly with the preferred contractor themselves.

The frequency of services would be determined by the domestic and commercial users and regulated by Council's Building Certification and Health Unit. The contractor would provide the service on an on-call basis and would be responsible for handling all bookings, payment of effluent and sludge disposal fees and collection of all fees directly from the user.

3.1 Extension of Time - CPA/125834 - Provision of Effluent and Sludge Removal Services (contd)

There would be an immediate reduction in Council's charges for all domestic and commercial ratepayers that have been serviced by the contract, as the annual charge set out in Council's Strategic Plan would be removed.

After implementation of the operational changes, compliance and regulation of effluent and sludge removal and disposal services would be audited and monitored by the Development and Building Department. Fees for the disposal of effluent and sludge by the Contractor at Council's treatment works would be collected by the Trade Waste Section of the Water and Sewer Unit.

OPTIONS

Maintain the Status Quo

Council could continue to charge ratepayers of the relevant sites an annual fee for the provision of effluent and sludge removal services that would entitle each ratepayer a fortnightly effluent removal service. The current operational issues would continue and the cost of implementing the service for a small number of properties would be inefficient. This option is not favoured.

Council could seek new tenders for the provision of effluent and sludge removal services by a sole contractor and align the tendered rates with the fees for the provision of effluent services in the Strategic Plan 2013/14. This option would involve further costs to be incurred to support an unwieldy service system and require further advertising of the amended fees. This option is not favoured.

Both options are inadequate as they offer no incentive to the domestic and commercial ratepayers located within close proximity to sewer services to connect.

STRATEGIC LINKS

The broader connection to Community Strategy plan falls under fiscal responsibility. Council's financial position would be improved as Council would cease to subsidise the cost gap for the provision of effluent and sludge removal services contract that has occurred over the past few years.

Budget Impact

The estimated cost to Council to extend the current contract with Remondis Australia Pty Ltd from 30 June 2013 to 31 December 2013 would be approximately \$45,000.00 excl. GST. This estimate includes the additional cost incurred to Council should the annual revenue collected from the domestic ratepayers for the fortnightly service be removed from the Strategic Plan 2013/14.

This estimate of cost may vary as Council's incentives to connect directly to sewer services are implemented and the number of sites serviced by Remondis Australia Pty Ltd is reduced.

In the subsequent years, Council would be saving approximately \$30,000.00 per annum that over the life of a three year contract period would capture savings of \$90,000.00.

CONSULTATION

Remondis Australia Pty Ltd has provided their support to extend the current contract until 31 December 2013 under the same terms and conditions plus CPI increases when applicable. The proposed extension of time is considered reasonable in order to facilitate the prescribed changes to Council's operations.

MATERIAL RISKS AND ISSUES

The following risks have been identified should the proposed changes be implemented:

Risk Category	Risk Identified	Likelihood of Risk	Risk Rating	Mitigation of Risk
Environmental	Unlawful damage to environment	Possible	Low	Development and Building Department will audit and monitor sites that are not connected to sewer services on a regular basis
Community, and Council Reputation	Community Opposition	Possible	Low	Offer incentives where applicable to reduce fees or provide a payment plan to ratepayer to manage the lump sum cost of Council's Sewer Contribution Charges

CONCLUSION

The result of this course of action would achieve a three-fold benefit to Council. The first is by reducing the environmental risk profile by having most of the properties connected to Council's sewerage services. The second is by encouraging competition in a low volume market by Council not engaging just one contractor to provide effluent removal and disposal services to all domestic and commercial sites within the Local Government area. The third is by this course of action removing the current requirement for Council to subsidise the cost gap between the charges set out in Council's Strategic Plan and the contractor's tendered rates.

ATTACHMENTS

Nil.

3.2 Wyong Shire Community Purchasing Scheme

TRIM REFERENCE: M2009/00723 - D03319591

MANAGER: Robert Fulcher, Manager Asset Management

AUTHOR: John McCarthy, Purchasing Coordinator

SUMMARY

This report has been prepared to a resolution made in response to a Notice of Motion to investigate the establishment of a Wyong Shire Council Community Purchasing Scheme.

RECOMMENDATION

- 1 That Council note the recommendation not to proceed with the establishment of a Wyong Shire Community Energy Purchasing trial.**
- 2 That Council approve an alternative approach to address escalating energy costs to the community by actively communicating the utilisation of IPART's price comparison web site.**

BACKGROUND

At the Ordinary Meeting of Council held on 8 August 2012 it was resolved as follows:

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

- 1 That Council note with concern the significant socio-economic disadvantage this community faces, that was highlighted in the recent national census*
- 2 That Council request the General Manager to seek to assist its community through broadening Council service delivery, with the implementation of a group/collective purchasing of services scheme*
- 3 That, subject to resolution 4, Council request the General Manager to trial the scheme in the area of energy purchase in response to the escalating price of power, partially due to the carbon tax and in light of other highly successful energy purchase schemes run by various media outlets.*
- 4 That prior to conducting the review identified in 3 above, staff report to Council a draft consultant's brief identifying all key aspects of the proposed review including the various policies, procedures and overall costs associated with the review.*
- 5 That Council direct the General Manager to provide an indicative and conceptual report which outlines benefits, structural issues, resources, and possible revenues that may result in the scheme becoming cost.*

- 6 *That Council request the General Manager to consult with its Community Precinct Committees to evaluate the interest of any proposed system."*

This report has been prepared to provide Council with information in relation to parts 3 and 4 of the resolution. Staff apologise for the delay in providing this report that has involved significant research.

Research on collective/community purchasing models in NSW was undertaken by:

- Internet searches
- Requesting information from other NSW Councils via the Local Government Procurement (LGP) network
- Consultation with Gosford City Council who had recently addressed a similar Notice of Motion in February 2012
- Discussions with Trans Tasman Electricity Group (Local Government Procurement Electricity Broker).

The research identified no other NSW Councils operating a Community based energy purchasing scheme at this time. Although private schemes do exist they are usually facilitated by third party buying agents on a commission basis and operate outside the regulated procurement frame work that exists for Councils. These schemes typically target cheaper energy prices by aggregating local demand and negotiating best available pricing from energy retailers.

CURRENT STATUS

Council currently does not offer a Community Purchasing scheme to residents nor is it structured to do so.

THE PROPOSAL

In order for Council to trial and / or facilitate a group buying scheme there are benefits and risks that need considering before proceeding.

Council's research has identified an Information Paper produced by the Local Government Association of South Australia, dated December 2011 on Resident Electricity Purchasing. This paper identifies the following benefits and risks Councils should consider before extending any community procurement service offerings to residents.

Benefits

The report identified the following benefits of a council run community energy purchase scheme, based on research of 3 schemes currently in operation in Victoria targeting bulk electricity savings. These schemes have a minimum requirement of 100 participants and have been established by local groups and not by Councils.

The research identified the following potential community benefits:

- Council has been seen as supporting their residents
- Cheaper electricity prices for residents
- Peace of mind through the purchasing process that:

- They have received a very competitive offer from the selected supplier;
- That the terms and conditions have been reviewed; and
- That any price increases are reasonable
- A sense of community by joining a local purchase scheme
- Time saving by not having to hunt down and compare offers individually.

Risks

The report identified the following risks for consideration for Council involvement:

- Electricity purchase is not a Council's core business and there are existing providers of this service in the market place;
- Price gains, unless the scheme is very large, are only marginal from what is already available on request over the counter from electricity retailers;
- Some residents will already have a discount on their electricity charges and they may object to their rates being used in a manner that benefits others;
- Not all residences will be seen as "attractive" by retailers and will be refused by others, typically because of credit related issues. If participation is refused, then the participant may see this as an issue for Council to resolve;
- Depending on the nature and governance of the scheme, privacy protocols may need to be considered where Council has access to resident's personal information;
- Some participants will have different consumptions and as such different retailer offers may benefit different participants;
- Depending on consumption patterns, the larger sites may be subsidising the smaller sites. This may prompt larger residential users to exit the scheme;
- If Council decided to manage a group purchase scheme for electricity then external expertise should be engaged to undertake the technical aspects of the pricing and evaluation process. However, the successful retailer could potentially pay the cost for the external expertise and the cost to Council for this process, but this arrangement would reduce the discount the retailer can offer;
- Maintaining the core number of participants is essential. People can exit for a number of reasons – e.g. a better priced offer by another provider, relationship breakdown and unemployment and so on. Therefore marketing effort will be required to maintain the participant pool and administer the issues associated with the "roll ins" and "roll outs" of customers and/or meters;
- Experience also suggests that, even if Council participates at arms length in establishing such a scheme, the residents' perception that Council is totally responsible anyway is a common phenomenon. This scenario could reflect badly on Council and/or place an unwanted administrative burden on Council staff;

Further Considerations

Council currently procures many supplies and services via State Government Contracts or from Local Government Procurement (LGP). These contracts utilise the aggregated buying power of all NSW government agencies to establish contract pricing across multiple procurement categories.

Pricing obtained by Councils via State Government contracts, such as electricity or a motor vehicle purchase, cannot legally be used by the agency or Council to resell to third parties. Council currently spends an estimated \$15M per annum on such agreements. If the intention of the Notice of Motion was to utilise Council's buying power, in addition to that of residents,

to negotiate a better deal for both Council and the residents, it will come at the cost of Council forfeiting its ability to utilise State Government Contracts.

This option is not advised as it would require Council to replicate the procurement processes the State Government currently conducts. In addition, Council would be paying more for common items such as electricity as we would not be able to leverage off the aggregated value the State Government Contract offers. As an example, the new state contract for electricity (C776) offers a 17% discount off standard IPART rates for small sites. This discount is achieved as the C776 contract is worth in excess of \$1B p.a.

It is highly unlikely that Council, with an \$800K small site per annum spend, would achieve this type of discount by tendering in partnership with local residents.

Another option of Council promoting that residents should approach its C776 energy contractor, with the hope of obtaining extra benefit from a supplier already involved heavily in the local area, will become complex as the preferred C776 supplier may change over time and there may be probity issues involved in linking one procurement process with unrelated supply matters in a different consumption environment.

Indicative costs and revenue potential

If Council chooses to trial a community procurement scheme for electricity, an arms length approach would be advisable. (Do not include Council's electricity usage as part of the process).

The following indicative costs and revenues are offered for consideration.

The below costs are indicative and based on a scheme consisting of 500 participants		
	Cost	Revenue
Write to residents and Precinct Committees and canvass interest	\$5,000.00	Revenue from energy retailers could be achieved based on a % of savings realised. However, the attached case studies have indicated the average saving by the 3 schemes investigated was only 3%. It's highly unlikely that revenues could be generated unless the scheme has significant mass e.g. > than 2,000 participants.
Commission an Electricity broker.	\$20,000.00 (This cost could be neutral if the broker accepts a commission on a % of saving achieved – this dilutes the attractiveness of the scheme)	

Legal cost associated with ensuring council is protected as Electricity Contracts often contain many pages of terms and conditions.	\$10,000.00 (This may be an indirect cost as Council's in house legal team could assist)	
Administration costs – managing the core participants of the scheme “roll ins” and “roll outs”. Staff time in fielding inquiries, communication costs etc. (estimated at .5 of an FTE)	\$40,000.00 per annum	
Total (First year)	\$75,000.00	(Unknown)

OPTIONS

For the basis of a trial the following options are provided for Council's consideration.

Option 1

Proceed to a trial partnering with an electricity broker. Seed funding would be required and the risks identified above would need addressing with no guarantees that revenue could be generated at this point.

Option 2

Council could act as a link between resident groups and various third party agents (or one selected by a preferred provider). This option is similar to those the various media outlets have organised, but Council remains at arms length from the operational part of the scheme. The cost of commissioning an electricity broker would be involved but many of the risks identified above would be avoided. It is possible this approach may achieve revenue but it is dependent on the scheme size and its attractiveness relative to other private schemes available to residents.

The one down side to this option is that the likely outcome for a resident could be no better, or possibly worse, than that which residents can currently achieve for free, by signing up to a private scheme such as “One Big Switch”.

Option 3

As a low cost/low risk alternative, Council may consider an approach to address escalating energy prices for the community by recommending and assisting rate payers to access IPART's “Compare my energy” web site. This site could be linked to Council's web site or referenced on rate notices and provides an easy option for residents to review and understand the best value energy options available within their geographical area.

<http://www.myenergyoffers.nsw.gov.au>

As an example, a quote was obtained utilising the “One Big Switch” community scheme using a local resident's annual electricity consumption. A \$316 annual discount was available with a specific supplier being recommended as the best available offer. Using the IPART web site to compare offers, a different specific supplier was recommended as the best available offer with a \$496 per annum saving available.

This service is free, is regulated by IPART and provided a better outcome than that achieved via a community purchasing scheme.

STRATEGIC LINKS

Not applicable

CONSULTATION

Consultation was conducted with:

- Council's Legal and Risk Unit
- Council's Custom and Community Engagements Unit
- Council's Water and Sewer Unit
- Gosford City Council
- Local Government Procurement
- NSW Department of Finance and Administration
- Trans Tasman Electricity Group

GOVERNANCE AND POLICY IMPLICATIONS

Should Council proceed to trial a Community Purchasing Scheme implications associated with section 55 of the Local Government Act (Tendering) would need to be taken into consideration.

MATERIAL RISKS AND ISSUES

Refer to the Benefits and Risks highlighted above.

CONCLUSION

Although there is merit in Council facilitating a community based electricity procurement scheme, the benefits would appear to be marginal and the risks are considerable.

Option 3, described above, is recommended as it provides both Council and its residents with a low cost tool to help rate payers address escalating energy costs. The service is free and Council's involvement in promoting its availability will help the local community address escalating energy prices.

ATTACHMENTS

- 1 Residential Electricity Group Purchasing - Information Paper D03297354



Local Government Association
of South Australia



RESIDENT ELECTRICITY GROUP PURCHASING INFORMATION PAPER

December 2011



Resident Electricity Group Purchasing
Local Government Association of South Australia, Local Government Corporate Services – Information Paper

Community Electricity Purchases Information Paper

PURPOSE

This Information Paper has been prepared to provide Councils with information on the issues and opportunities regarding “group purchase” arrangements for electricity for residents – both residential and business.

BACKGROUND

Electricity costs are becoming an increasing financial burden for residents. There have been media reports of “buying groups” that have been formed with the view to achieving savings for participants. In preparing this Paper expert advice was sought from the Trans Tasman Energy Group that has been long term adviser to the Local Government Association (LGA) and Local Government Corporate Services (LGCS) on the electricity market.

EXISTING SCHEMES

There have been a limited number of community based “buying groups” established. The first one was established by the Somers Residents Association in Victoria. Somers is a small seaside holiday location around 90 minutes from Melbourne.

There were around 600 participants in the scheme and a summary of the offer details are shown in Table 1. Further details are available in a letter from the Somers Residents Association¹.

Table 1 Energy Cost Comparison – Somers, Victoria

	Retailer	Tariff	Base Charges (A)		discount	Charges after discount (A)			billing period	term years	Sign on bonus	Exit fee	other
			peak, c/kWh	Service, c/day		peak, c/kWh	Service, \$/day	Total cost (C)					
1	Origin Energy	GD UE	19.22	54.41	10% discount on kWh only	17.30	54.41	\$ 1,928	qtr	1	nil	\$20	
2	Somers (B)		19.05	57.21	15% pay on time discount on total bill.	16.19	48.63	\$ 1,797	qtr	2	\$30	\$50	Once off \$10 for direct debit and \$10 for online bills
3	Neighbourhood Energy (B)	GD/GR	19.05	57.21	12% pay on time discount on total bill.	16.76	50.34	\$ 1,860	qtr	2	\$30	nil	
4	Power Direct	GD	17.18	71.37	10% discount on kWh only	15.46	71.37	\$ 1,807	mth	3	nil	\$20	\$20 direct debit bonus
References						Note:							
1	http://retailer.yourchoice.vic.gov.au/uploads/package/2011-07-29-00-43-06-1564825966.pdf					A All rates Exclude GST							
2	http://www.somers.org.au/electricityOffer.html					A All rates as applied to Somers post code 3927							
3	http://www.somers.org.au/Documents/Newsletters/SRA%20Members%20Bulletin%20Autumn%202011.pdf					B Discounts ONLY apply if paid on time							
3	http://retailer.yourchoice.vic.gov.au/uploads/package/2011-06-22-07-08-45-1180585995.pdf					C Total cost has been based on 10,000 kWh p.a. consumption							
3	http://www.neighbourhood.com.au/special-offers.html												
4	http://retailer.yourchoice.vic.gov.au/uploads/package/2011-02-09-03-16-07-173860546.pdf												

Fees for conducting the process were paid by the successful retailer, Neighbourhood Energy, so there was no direct cost to participants. The process was conducted by PowerGroup Purchasing and after investigating their website² it appears that there are two other operational schemes at Grantville and Bass Coast Region via the Grantville and District Development Committee and at Hemsley Park Retirement Village (Ballarat) via the Local Residents Association.

Whilst Somers, Grantville and Ballarat appear to be the only operational schemes, there are 10 schemes pending in Victoria, 3 in South East Queensland, 1 in NSW and 1 in SA³. The Local Residents Committee is organising the SA scheme in Gumeracha.

¹ <http://www.somers.org.au/Documents/SRA%20Reports/Bulk%20Electricity%20Letter.pdf>

² <http://www.powergrouppurchasing.com/>

³ <http://www.powergrouppurchasing.com/projects.php>

Residential Electricity Group Purchasing
Local Government Association of South Australia, Local Government Corporate Services – Information Paper

As with any retailer offer, any participant will be required to meet the retailer's credit criteria and this applies to the existing group offers. This will typically preclude some participants.

The Neighborhood Energy offer came with a 20 page Terms and Conditions booklet.

We are not aware of any group schemes of a similar nature for businesses.

Further, we are not aware of any Council arranging group purchases on behalf of residents or businesses.

COMMENTS ON EXISTING SCHEMES

All existing schemes have a minimum requirement of 100 participants and have been established by local groups and not by Councils.

As shown in Table 1, the schemes do not appear to establish significantly better prices than participants could achieve themselves. For example, based on the assumed 10,000 kWh p.a. consumption, the Power Direct offer is only \$10 p.a. higher than the Somers resident's offer, plus it has a benefit that the bill does not need to be paid on time to receive the discount. If however we used a consumption of 11,500 kWh p.a. then those participants would be better off with the Power Direct offer and not the group purchase offer!

Offers from Lumo, Red Energy and Momentum Energy also look very competitive, but their offer data was not current on the site.

In considering the Neighborhood Energy offers (i.e. 2 and 3 in Table 1) there is only a 3% difference between their standard offer and the Group Purchase offer – so this can be used as a guide to a potential benefit from the Group approach.

ESSENTIAL SERVICES COMMISSION OF SOUTH AUSTRALIA (ESCOSA)

In addition to the above schemes, ESCOSA provides a web based comparison of electricity rates for Residential and Businesses direct from the retailers.

The web references are:

- Residential <http://archive.escosa.sa.gov.au/site/page.cfm?u=280>
- Business <http://archive.escosa.sa.gov.au/site/page.cfm?u=279>

For a peak only consumption of 2,000 kWh in the summer period the top four residential results are shown in Table 2⁴:

Table 2 – Discounts ex the ESCOSA website

Retailer and Tariff Offer	Cost Before Incentives	Direct Debit Rebate	Other Rebates	Estimated Annual Cost	Estimated Annual Savings	One-off Joining Bonus	% savings
Simply Energy - SA Partnership 12 (RAA Members)	\$2,289	\$0	\$0	\$2,289	\$401	\$0	15%
Simply Energy - SA Simply Save	\$2,336	\$0	\$0	\$2,336	\$354	\$0	13%
Powerdirect-7% Discount - Direct Debit	\$2,364	\$20	\$0	\$2,344	\$346	\$0	13%
Lumo Energy - Advantage	\$2,363	\$0	\$0	\$2,363	\$327	\$0	12%

That is according to the ESCOSA site, 12% to 13% discounts appear to be readily available from the market for residential customers with a 15% discount available for RAA members.

⁴ There were no workings provided so TTEG could not check the validity of any offer

Resident Electricity Group Purchasing
Local Government Association of South Australia, Local Government Corporate Services – Information Paper

Note:

1. there were no Terms and Conditions on the ESCOSA site; and
2. the higher RAA discount is most likely reflective of the RAA's membership base; Simply Energy wanting to establish their brand; and, or other non price factors.

The question then becomes, how much better can other buying groups do versus the discounts on the ESCOSA site? Given the Victorian example at Somers, perhaps 3% is the best that can be expected.

WHAT ARE THE BENEFITS?

We have not interviewed participants, but we expect participants may benefit from:

- cheaper electricity for the resident;
- peace of mind through the purchasing process that:
 - they have received a very competitive offer from the selected retailer;
 - that the terms and conditions have been reviewed; and
 - that any price increases are reasonable⁵.
- time saved by not having to 'hunt down' and compare offers from retailers themselves particularly if they do not have the skills to undertake this task Savings versus their current electricity bills;
- a 'sense of community' by joining in a local group purchase;
- building a relationship between the retailer, Council and resident; and
- Council being seen as supporting their residents.

WHAT ARE THE ISSUES A COUNCIL SHOULD CONSIDER?

Over the past 10 years TTEG has been active in assisting Councils consider opportunities to provide group purchasing schemes for their residents. Each time Councils have decided not to progress with this approach. Although circumstances change over time, TTEG have provided some considerations and comments from their experience:

- electricity purchase is not a Council's core business and there are existing providers of this service in the market place;
- price gains, unless the scheme is very large, are only marginal from what is already available on request over the counter from electricity retailers;
- some residents will already have a discount on their electricity rates and may object to their rates being used in this manner for the benefit of others. This could be overcome if the cost to council for any process was paid from the successful retailer for conducting the process – but this will reduce the discount offered by the retailer;
- not all residents will be seen as 'attractive' by retailers and will be refused offers, typically because of credit related issues. If participation is refused, then the participant may see this as an issue for Council to resolve, but presumably, this could be handled in the process;
- depending on the nature and governance of scheme privacy protocols may need to be considered where Council has access to residents personal information;
- some participants will have different consumptions and as such different retailer offers may benefit different participants. For example, the Power Direct offer (ex Table 1) represents better value for sites above 11,500 kWh p.a.;
- depending on consumption patterns, the larger sites may be subsidising the smaller sites – so this would need to be managed in the process, otherwise the large sites may discover they can get better discounts elsewhere. Establishing a Group Purchasing process outside of Council (as was done in Somers) will potentially extract similar prices from the market but will not require any direct involvement from Council;

⁵ A comment from a participant in the Somers scheme

Resident Electricity Group Purchasing
Local Government Association of South Australia, Local Government Corporate Services – Information Paper

- if Council decided to manage a Group purchase scheme then external expertise should be engaged to undertake the technical aspects of the pricing and evaluation process. However, the successful retailer can potentially pay the cost for the external expertise and the cost to Council for any process but this once again will reduce the discount the retailer can offer;
- maintaining the core of participants is essential. People can exit for a number of reasons – e.g. a better priced offer by another provider, relationships breakdown, unemployment and so on. Therefore marketing effort will be required to maintain the participant pool and administer the issues associated with the "roll ins" and "roll outs" of customers and/or meters;
- experience also suggests that even if Council participates at arm's length in establishing such a scheme that the residents' perception that Council is totally responsible anyway is a common phenomenon. This, in a worst-case scenario, could reflect badly on Council and/or place an unwanted administrative burden on Council staff; and
- in terms of administration, consider the following, in South Australia we have 68 Council customers with around 4,000 meters. A residential scheme with 4,000 meters will have 4,000 customers – one for every meter.

CONCLUSION

In summary the administration of an electricity group purchasing scheme, given the management of the "roll ins" and "roll outs", potential equity concerns amongst residents, privacy issues, the marketing of the service, credit issues, the employment of consultants, etc would be considerable. Increasing the size of the buying group to a point where discounts better than 13-15% were possible would potentially see the number of participants rise to the thousands. This would require a substantial business operation that, whilst not impossible, is not Council's core business and therefore an activity best left to external processes. In addition, the market already provides for those residents who wish to pursue cheaper energy either through direct negotiation with the retail energy supplier or through one of the aforementioned electricity buying groups. Therefore, direct Council involvement in electricity group purchasing is not recommended. However, where resident buying groups seek input from Council it would be responsible to suggest they seek legal, business planning and market (electricity category) advice before proceeding.

FURTHER INFORMATION

Contact: John Fisher, Program Manager, LGCS
T: 08 8224 2012
M: 0417 806 680

3.3 Local Preference Policy Amendment

TRIM REFERENCE: F2005/03113 - D03316167

MANAGER: Robert Fulcher, Manager Asset Management

AUTHOR: Debbie Knight; Administration Assistant

SUMMARY

Council has recently undertaken a review of the Local Preference Policy and the application of the Local Preference Policy for 2011/12.

This business paper reports on the findings of the review and makes recommendations for strengthening the effectiveness of the Policy and for making it fairer and more efficient to administer.

RECOMMENDATION

- 1 That Council approve the amendments to the Wyong Shire Council Local Preference Policy as shown in the marked up copy of the Local Preference Policy in Attachment A.**
- 2 That Council note the Report on the Application of the Local Preference Policy for the Financial Year 2011/12, which is incorporated in this business paper.**
- 3 That Council note the other initiatives to be undertaken for strengthening the Local Preference Policy.**

BACKGROUND

At an Ordinary Meeting of Council on 13 February 2013 concerns were raised by Councillors about the effectiveness of the Local Preference Policy in the context of a specific panel contract tender evaluation (CPA/218854). Council resolved that Council direct the General Manager to review the Local Preference Policy and undertake a briefing with Council about capturing a higher recognition of engagement of local companies in future procurement processes.

A review of the Local Preference Policy including the outcomes of applying the Policy over the 2011/12 financial year (pursuant to clause D.2.5. of the Policy) has been carried out by Council's Contract Systems Manager Mary-Ellen Wallace and Council's Purchasing Manager John McCarthy.

The findings and recommendations for changes to the Policy and to Council's procurement processes were presented to Councillors at a Councillor Briefing Session on 13 March 2013. Councillors present at the briefing were supportive of the recommendations.

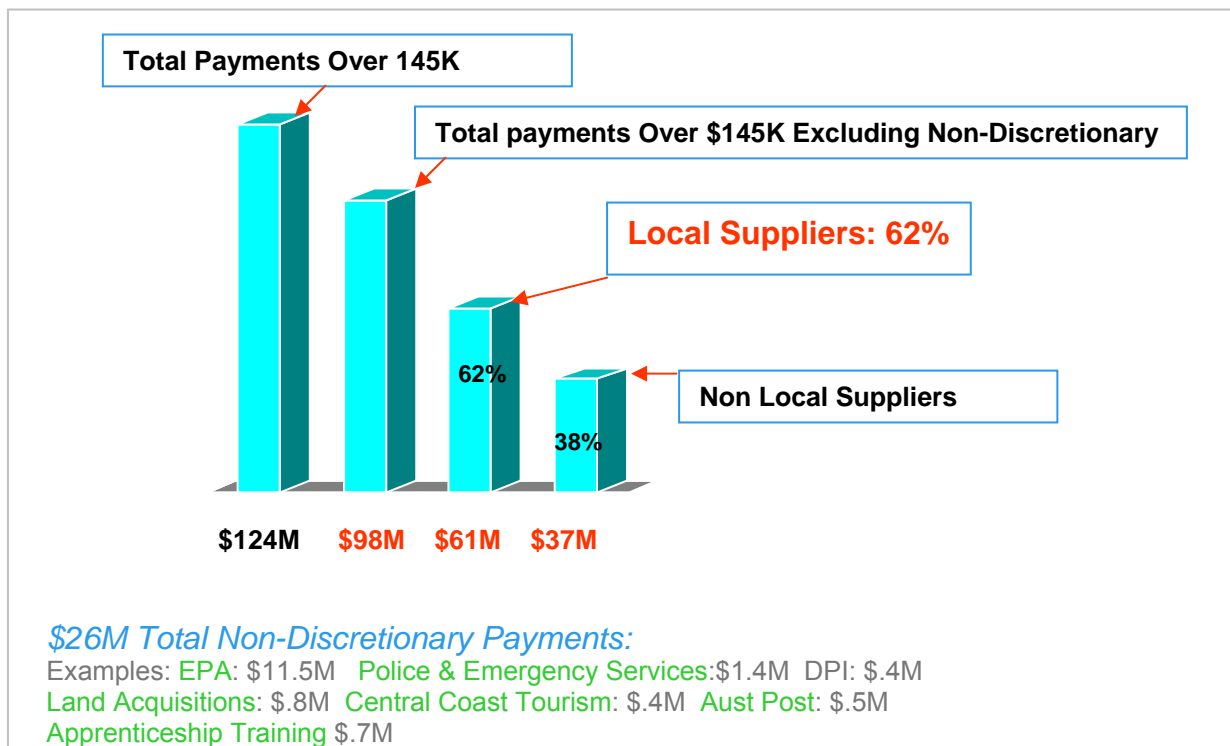
A report of the key findings from the review of the Local Preference Policy for 2011/12 and the issues raised at the Councillor Briefing is as follows:

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

- 111/13 That Council request the General Manager to organise a briefing of the Tender Assessment Panel for CPA/218854, to explain their tender assessment process, the criteria established and the weightings allocated in accordance with Council’s policy, in particular the Local Preference Policy.
- 112/13 That Council request the General Manager to review and report on the procurement processes, including the detailed assessment reports that come to Council, so that information around how criteria is established, how weightings are allocated and how the Local Preference Policy is captured.
- 113/13 That Council direct the General Manager to review the Local Preference Policy and to undertake a briefing with Council to capture a higher recognition of engagement of local companies in future procurement processes
- 114/13 That Council refer this matter to the Employment and Economic Development Committee prior to the Council briefing.”

Report on the Application of the Local Preference Policy FY 2011/12

62% Discretionary Payments over \$145K are to Local Suppliers



¹ *Exact figures are not available. Local content is not captured in Council's financial system and it is not practicable to analyse each individual transaction under \$145K due to the large volume of transactions. Given that 62% of the discretionary procurement spend over \$145K is with local suppliers, and that as a general observation a higher proportion of smaller procurement is with local suppliers, it is reasonable to assume that at least 66% or two thirds of Council's discretionary procurement spend is with local suppliers.*

Problems with the Local Preference Policy

There are a number of problems with some of the definitions in the Policy which make it difficult to administer, including:

1. The definition of 'Local Content' in the Policy is ambiguous and confusing to both Council staff and suppliers, which makes the mandatory 10% evaluation weighting difficult to administer in practice. In particular it is unclear whether bidders who are local suppliers have to quantify the value of local content in their offer, or whether 'physical presence' in the Wyong or Gosford Local Government Areas is sufficient. The ambiguity means that local content is not assessed consistently by Council staff and there are many inconsistencies in how it is claimed by suppliers.
2. The 10% evaluation weighting does not apply to 'unpriced' procurement decisions – for example when a specialist panel is being created following a call for Expressions of Interest ("EOI"). (If no local suppliers are placed on the panel at the EOI stage, the 10% local content weighting also has no relevance to subsequent tendering off the panel.)
3. The mandatory 10% evaluation weighting unnecessarily dilutes the other evaluation criteria and adds to administration where only local suppliers are being invited to bid.
4. Local content claims are currently based on the level of local content proposed at the time of tender. In many cases it is not possible to verify whether local subcontractors, staff or suppliers proposed by a bidder were actually used. Also, by the time a contract is awarded the local subcontractor or supplier that a bidder proposes to engage might no longer be available. If local bidders are required to prove local content (in addition to physical presence), the situation could arise where a local bidder with a low level of local content can score less than a non-local bidder who claims they will be using local subcontractors or suppliers. This is unfair if the non-local bidder ends up not being able to use the local subcontractor or supplier.
5. The meaning of 'physical presence' in the policy is not clear and leads to inconsistent application of the Policy. An example that frequently arises is whether a non-local supplier can claim staff living on the Central Coast as local content.
6. The Policy has not been drafted in a way that is user friendly, and is difficult for staff and suppliers to understand.
7. The Policy has not had a legal review since it was first introduced. There are differing views amongst Councils about whether a prescriptive local preference policy such as the WSC Policy complies with current consumer and competition laws.

CURRENT STATUS

The Local Preference Policy has been in effect since 1 March 2010, and applies to all procurement with a definable cumulative value greater than \$20,000 (ex GST) that is to be sourced from a single supplier. The Policy has not been reviewed since the date it was introduced.

THE PROPOSAL

The proposed amendments are set out in the marked up copy of the Policy in Attachment 1.

The problems described in points 1 to 5 above can be addressed by amending the definition of Local Content, so that there are two clear opportunities to capture local content under the Policy:

- 'Local Supplier' – A local supplier will be eligible to claim the full benefit of the 10% evaluation weighting without having to prove the level of local content in their offer. Under the proposed amendments a local supplier will be defined as “a business, contractor or industry either permanently based in, or employing permanent staff operating from, permanent premises situated within the Wyong or Gosford Local Government Areas for not less than 6 months prior to the date of first advertising or calling for tenders.”
- 'Local Content' – A non-local supplier can claim up to 10% evaluation weighting depending on the level of local content. Under the proposed amendments Local Content will be defined as “goods and services procured from a Local Supplier or employees living permanently in the Local Area”.

There are also a number of minor consequential amendments and updates to legislative references.

Other Initiatives for Strengthening the Local Preference Policy

The following will be undertaken over the next 12 months:

- A legal review of the Policy will be carried out to ensure the Policy complies with current consumer and competition laws.
- The Policy will be re-written so it is easier for staff and suppliers to understand.
- Greater use will be made of supplier panels (with both local and non-local suppliers). This initiative is designed to make it easier for Council to identify and do business with local suppliers who are capable of fulfilling the procurement requirements.
- Technology will be procured to support the establishment and management of supplier panels.
- A 'Doing Business with Council' page will be established on Council's website, to make it easier for suppliers (including local suppliers) do business with Council.
- Contract Plans will include a requirement for staff to consider local suppliers when planning their procurement. This is the point at which procurement decisions are most heavily influenced by local content is at the procurement planning stage, when decisions are made about the procurement need, work packaging, panel structuring, evaluation criteria and market strategy (including, for selective sourcing, which suppliers will be invited to bid).

OPTIONS

Other options for strengthening the Policy that have been considered include:

1. Increasing the mandatory weighting of local content from 10% to a higher percentage.
2. Increasing the limits on the maximum adverse financial implication to Council per procurement transaction arising from the application of the Policy.
3. Removing the mandatory 10% evaluation weighting, given that data analysis shows that the 10% weighting makes little difference in practice, but is relatively onerous to apply and administer.

Options 1 and 2 are not recommended at this point in time, as there is insufficient data available to assess whether the policy would be more effective if the weighting or limits are increased, and what the potential costs to Council might be. This data will, however, be captured for procurement over \$145K from this point forward so that these options can be considered when the Policy is reviewed in 12 months time. (Note that the benchmark figure of \$145K is not related to any statutory limit, but is set because it is at a level that allows for accurate analysis by council staff).

Option 3 is not recommended at this point in time, as the proposed amendments to the Local Policy should make it easier to administer. Also, even if the 10% weighting has little effect in practice, it ensures that Council staff are mindful of the objectives of the Policy when planning their procurement.

STRATEGIC LINKS

The Proposal is linked to the Community Strategic Plan 2012-2016 Priority Objective 6: "There will be a strong sustainable business sector".

Budget Impact

The proposed amendments to the Local Preference Policy are unlikely to impact Council's budget, as they are designed to address current ambiguities and inconsistencies in the Policy rather than introducing new categories of local content.

CONSULTATION

Details of consultation undertaken in relation to this recommendation are set out in the following table.

Who was consulted?	Interest/Reason for consulting	Views about current Policy	Response to proposed amendments to Policy
General Counsel (Internal)	Legal and Risk	Confirmed current definition of 'Local Content' is ambiguous and requires clarification	Amendments signed-off from a legal and risk perspective

Who was consulted?	Interest/Reason for consulting	Views about current Policy	Response to proposed amendments to Policy
Contracts & Project Management Staff; Purchasing Staff (Internal)	Staff responsible for implementing and administering the Policy (Tenders and Purchasing)	10% evaluation weighting is ambiguous and onerous to apply in practice; impractical to enforce; confusion amongst suppliers; Local Content is claimed and applied inconsistently	Supportive – proposed changes will be easier for suppliers to understand and substantiate; clearer and easier for staff to apply and verify.
Director Infrastructure & Operations	Directorate responsible for most purchasing and contracts requiring application of the Policy	Concerns regarding effectiveness of the Policy and difficulties of applying it in practice	Supportive
Procurement management staff from a selection of other NSW Local Councils (External)	Councils with a Local Preference Policy based around proposed new 'Local Supplier' and 'Local Content' definitions.	No problems in practice with their 'Local Supplier' and 'Local Content' definitions.	N/A
General Manager; Councillors present at Councillor Briefing Session 13 March 2013	Specific request to be consulted	Concerns regarding effectiveness of the Policy	Supportive

GOVERNANCE AND POLICY IMPLICATIONS

The Proposal will not affect any other Council policy.

Minor amendments will be required to Council's procurement procedures and templates to give effect to the Proposal.

The proposed amendments to the Policy have been approved by General Counsel, Legal and Risk.

MATERIAL RISKS AND ISSUES

Not applicable.

CONCLUSION

In this business paper Council is being asked to approve minor amendments to the Local Preference Policy and to note other procurement initiatives that will be implemented in order to make the Local Preference Policy more effective.

ATTACHMENTS

- | | | |
|----------|---|-----------|
| 1 | Procurement - Local Preference Policy - Amendments - with track changes | D03342028 |
|----------|---|-----------|



Procurement

Local Preference

Operational from

Page 1 of 17

Version 1.

The central graphic consists of a dark blue horizontal bar at the top with the word "Procurement" in white. Below this is a light blue background with a dark blue wavy line that tapers to the right. The words "Local Preference" are written in dark blue on the right side of this section. At the bottom of the graphic is a white silhouette of a town skyline with several buildings of varying heights. Below the skyline is a dark brown horizontal bar with the text "Operational from" in white. At the very bottom of the graphic is a light blue horizontal bar containing the page number "Page 1 of 17" on the left and "Version 1." on the right.

A. POLICY SUMMARY

A.1 This document sets out Council's policy in relation to considering and favouring Local Content when acquiring goods and services.

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~~A.2 The General Manager has authority to depart from this policy when that departure results in an identified and recorded benefit to the Council.~~

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B. POLICY OBJECTIVES

B.1 Council is committed to obtaining the best possible value for ratepayers through the implementation and management of a fair and appropriate procurement system.

B.2 Council also recognises its role in the local community as a purchaser of significant quantities of goods and services. Given that role within the local community, it is important that it also consider the potential positive effect it can have in encouraging and facilitating the local economy through considering the level of Local Content contained in Offers for the supply of goods and services.

B.3 Through the provisions of this Policy, Council aims to encourage the development and promotion of business and industry within the Central Coast region, and, in so doing, assist in creating growth and employment in the region.

B.4 In accordance with this Policy, Council will apply a preference as specified herein to Offers for the provision of goods and services that demonstrate a level of Local Content.

B.5 To act transparently and publicly document the objective criteria which may be considered in the assessment of procurement decisions.

C. DEFINITIONS

C.1 "Local" - means the NSW Central Coast, specifically the Wyong Shire and Gosford City Local Government Areas.

C.2 "Local Content" – means goods and services procured from a Local Supplier or employees living permanently in the Local area.

C.3 "Local Supplier" means a business, contractor or industry either permanently based in, or employing permanent staff operating from, permanent premises situated within the Local area for not less than six months prior to the date of first advertising or calling for Offers.

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C.4 "Offers" – means quotations, tenders, expressions of interest and submissions made under a competitive basis for the provision of goods and services to Council.

C.5 "Most Competitive Offer" – means the Offer that is assessed as the highest scoring prior to evaluation of Local Content.

Deleted: C.4 "Physical Presence" – means the person, business or enterprise must employ at least one person working in a full-time position in a workplace within in either or both of the local government areas of Wyong Shire or Gosford City and has done so for a period of no less than six (6) months prior to the date of first advertising or calling for Offers.¶

C.6 "Preferred Offer" – means the Offer that is assessed as the highest scoring following evaluation of Local Content.

C.7 "Policy" – means this Local Preference Policy – Procurement.

C.8 "Services" – means procurement under which the provider primarily supplies time, effort and/or expertise to Council. Examples: Trade services for asset maintenance, provision of plant with operator, undertaking a feasibility study.

C.9 "Goods" – means procurement primarily concerning the transfer of the title in products, commodities, equipment and other tangible items from the provider to Council. Examples: Supply and delivery of quarry products, purchase of plant & equipment.

C.10 "Works" – means procurement requiring the provider to construct or significantly rehabilitate assets necessitating the use of substantial levels of both Services and Goods. Examples: Construct new community centre, reconstruct road pavement, supply and install air-conditioning system.

D. LEGISLATIVE AND GOVERNANCE MATTERS

D.1 This Policy recognises the procurement of goods and services by Council must be in accordance with the legislative framework that is set out in the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, as well as relevant requirements under Commonwealth and State legislation, specifically:

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D.1.1 Section 55 of the Local Government Act 1993
Details the provisions for tenders.

D.1.2 Local Government (General) Regulation 2005
Clauses 165-181, which detail the administration of tenders, including prerequisite requirements, submissions and opening of tenders and determining tenders.

D.1.3 Clause 209 provides for the particular responsibilities of the General Manager.

D.1.4 Clause 211 provides for the authorisation of expenditure.

D.1.5 *Competition and Consumer Act 2010* (Commonwealth)
The purpose of this legislation is to promote competition and fair trading.

Deleted: Trade Practices Act 1974

D.2 To support good governance in the implementation, operation and management of this Policy, the following will be observed:

D.2.1 This Policy will be adopted by Council in open session.

D.2.2 Subsequent reviews and amendments to this Policy are to be made in open session by Council.

D.2.3 Minor administrative changes necessary to accommodate legislative changes and the like will be approved by the General Manager.

D.2.4 The full Policy will be published on an appropriate page of Council's website.

D.2.4 Formalised requests issued by Council seeking competitive Offers will include a statement outlining the use and application of this Policy and the internet address to obtain the full Policy.

D.2.5 All reports to Council making recommendation for the award of contracts will include details of the effect to the recommendation arising from application of this Policy.

D.2.5 On an annual basis, or at shorter intervals as deemed necessary by the General Manager, a report will be prepared for inclusion in a Council business paper detailing the outcomes of applying this Policy, including:

- The number of times that application of this Policy influenced procurement decisions.
- The names of beneficiaries of decisions made through application of this Policy.
- The financial implications to Council in applying this Policy.
- The effectiveness of this Policy in developing and promoting business and industry within the Local region.
- Recommendations for amendments to this Policy.

D.3 Council's Procurement Policy is available from Council's website. It sets out administrative matters in relation to the procurement of goods and services. Regard shall be had to this Policy in the application of the Procurement Policy. The Local Preference Policy - Procurement will have precedence in the event of any conflict with the Procurement Policy.

E. OPERATION OF POLICY

- E.1 The Policy will apply to all procurement with a definable cumulative value greater than \$20,000.00 (ex GST) that is to be sourced from a single supplier.
- E.2 Offers must be sufficiently detailed to enable Council to assess Local Supplier status or the level of Local Content included. To support assessment of Local Supplier status or the level of Local Content contained in Offers, Council may provide pro-forma templates to bidders for completion and/or require bidders to provide necessary detail in another form(s).
- E.3 In assessing Offers, Council and its officers must be reasonably satisfied as to Local Supplier status or the level of Local Content stated. It is the responsibility of bidders to provide relevant documentary evidence to establish the veracity of the claimed Local Supplier status or level of Local Content. Council retains the right within its sole discretion to accept the veracity of stated Local Content.
- E.4 To assess Offers, Council may develop appropriate evaluation criteria for individual procurement transactions. Price and Local Content will be mandatory criteria. Other non-price criteria may also be applied dependent on the specific circumstances.
- E.5 A weighting will be applied to each evaluation criterion. Local Content will have a mandatory weighting of 10% of the total evaluation criteria. Weights applied to price and non-price criteria will have a maximum cumulative weighting of 90%.
- E.6 The level of Local Content will be assessed as follows:
- The level of Local Content in an Offer submitted by a Local Supplier will be assessed at 100%;
 - The level of Local Content in an Offer submitted by a non-Local Supplier will be assessed at the percentage of the Net Costs of their Offer which includes or is attributable to Local Content. 'Net Costs' means the total amount offered by the bidder for the supply of goods or services, including freight or delivery charges, excluding GST and any discounts or rebates offered by the bidder.
- E.7 The maximum adverse financial implication to Council per procurement transaction arising from the application of this Policy will be limited. In setting the limitations,

Council recognises that different types of procurement will have varying effects on the Local economy. For this reason, this Policy recognises three types of procurement and are defined under Clauses C8, C9 & C10 of this Policy i.e.

1. "Services"
2. "Goods"
3. "Works"

E.8 Where as a direct consequence of applying this Policy an Offer is assessed as the Preferred Offer, then reference shall be made to this Clause prior to acceptance of such Offer. The limitations will be applied as follows:

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E.8.1 Financial Limitations - Procurement Primarily for Services

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Expenditure Range - Most Competitive Offer (ex GST)	Maximum Unfavourable Financial Implication %
>\$20,000 to <\$50,000	10% or \$5,000 above the price component of the Most Competitive Offer, whichever is the lower.
\$50,000 to <\$150,000	7.5% or \$11,250 above the price component of the Most Competitive Offer, whichever is the lower
\$150,000 to <\$500,000	5% or \$25,000 above the price component of the Most Competitive Offer, whichever is the lower.
\$500,000 to <\$1M	3.5% or \$35,000 above the price component of the Most Competitive Offer, whichever is the lower.
>\$1M	2.5% above the price component of the Most Competitive Offer, up to a maximum of \$50,000.

E8.2 Financial Limitations – Procurement Primarily for Goods.

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Expenditure Range - Most Competitive Offer (ex GST)	Maximum Unfavourable Financial Implication %
>\$20,000 to <\$50,000	2% or \$1,000 above the price component of the Most Competitive Offer, whichever is the lower.
\$50,000 to <\$150,000	1.5% or \$2,250 above the price component of the Most

	Competitive Offer, whichever is the lower.
\$150,000 to <\$500,000	1.25% or \$6,250 above the price component of the Most Competitive Offer, whichever is the lower.
\$500,000 to <\$1M	1% or \$10,000 above the price component of the Most Competitive Offer, whichever is the lower.
>\$1M	0.5% above the price component of the most Competitive Offer, <u>up to a maximum of \$20,000</u>

E.8.3 Financial Limitations – Procurement for Works

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Expenditure Range - Most Competitive Offer (ex GST)	Maximum Unfavourable Financial Implication %
>\$20,000 to <\$50,000	7.5% or \$3,750 above the price component of the Most Competitive Offer, whichever is the lower.
\$50,000 to <\$150,000	5% or \$7,500 above the price component of the Most Competitive Offer, whichever is the lower.
\$150,000 to <\$500,000	3% or \$15,000 above the price component of the Most Competitive Offer, whichever is the lower.
\$500,000 to <\$1M	2% or \$20,000 above the price component of the Most Competitive Offer, whichever is the lower.
>\$1M	1.5% above the price component of the most Competitive Offer, <u>up to a maximum of \$35,000</u>

E.9 In the event a Preferred Offer exceeds the applicable limitation threshold as stated at Clause E.7, the Offer to be accepted will be, in order, either:

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- The next ranked Preferred Offer which does not exceed the applicable limitation threshold.

Or, in the event that all Preferred Offers are in excess of the applicable limitation threshold:

- The most Competitive Offer.

E.10 Examples of the methodology of the assessment of Offers under this Policy, including application of financial limitations are included in the appendix.

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F. EXTERNALLY ESTABLISHED ARRANGEMENTS

F.1 Where Council acquires goods and services under standing offer arrangements established by external authorities and co-operative bodies, acquisitions made under such arrangements will be subject to this Policy insofar as the specific arrangement enables a choice of providers and/or the ability to seek competitive pricing, with a condition that the price is limited to the maximum price prescribed in the arrangement (if any). Such acquisitions will generally occur via standing offer arrangements established by:

- NSW State Contracts Control Board
- Local Government Procurement Pty Ltd
- Hunter Councils (Incorporated)
- Municipal Authorities Purchasing Scheme (MAPS) Group Pty Ltd

F.2 Where an externally established arrangement does not enable the selection of providers and/or ability to seek competitive pricing, then the maximum price payable by Council will be the rate prescribed within the arrangement.

G. SELECTIVE SOURCING OF OFFERS

G.1 For acquisition of goods and services that are not required to be sourced via a public tender in accordance with the NSW Local Government Act, Council officers will source Offers from Local Suppliers considered capable of fulfilling the specific requirements.

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G.2 Where there are a sufficient number of known Local Suppliers capable of ensuring a competitive choice and can demonstrate an ability to meet Council's needs in relation to:

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- Availability
- Suitability
- Capacity

Council will source Offers from such Local Suppliers to a level commensurate with the estimated expenditure as specified in the Procurement Policy.

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Where there are insufficient Local Suppliers to ensure competitive choice, then Council may choose from any provider, including any that may be Local Suppliers.

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G.3 The adoption of this Policy does not compel Council to invite Offers from any particular providers. The following will be applied when considering Providers who are to be invited to provide Offers:

G.3.1 Council may preclude inviting Offers from providers where past poor performance in the provision of goods and services has been established. The Director of the Department incurring the expenditure shall have jurisdiction over the preclusion (and re-inclusion) of any providers under this Clause.

G.3.2 Council will confirm Local Content undertakings contained in accepted Offers through an appropriate level of validation. Providers who fail to materially meet Local Content undertakings may be subject to preclusion from future opportunities to submit Offers in accordance with Clause G.3.1.

Appendix

Local Preference Policy – Procurement

Example Assessments – Services

Example 1

Example 2

	Firm's Name		Koala Contractors		Kangaroo Services	
	Total Cost to Council:	Weight	Score	Score	Score	Score
	\$280,000				\$292,000	
Evaluation Criteria	Weight	Score	Score	Score	Score	Score
Total Cost to Council:	50%		50.0			47.9
Other weighted criteria:						
Other weighted criteria total:	40%			30.0		29.0
Total Weighted Score:	90%			80.0		76.9
				% Local Content		% Local Content
Local Preference	10%			40%		100%
Total Weighting Applied:	100%					
Score After Local Preference				84.0		86.9
Most Competitive Offer						

Offer of Koala Contractors is assessed as the Most Competitive Offer prior to evaluation of Local Content.

Following assessment of Local Content, the Offer from Kangaroo Services (a Local Supplier) becomes the Preferred Offer.

The financial implication in accepting the Preferred Offer is \$12,000 (Kangaroo cost less Koala cost). The limitation on the financial implication for this value of work is \$14,000 as per Clause E.8.1 (\$280,000 x 5%).

The financial implication is below the threshold. The Preferred Offer of Kangaroo Services is to be accepted.

	Firm's Name		Koala Contractors		Kangaroo Services	
	Total Cost to Council:	Weight	Score	Score	Score	Score
	\$280,000				\$295,000	
Evaluation Criteria	Weight	Score	Score	Score	Score	Score
Total Cost to Council:	50%		50.0			47.3
Other weighted criteria:						
Other weighted criteria total:	40%			30.0		29.0
Total Weighted Score:	90%			80.0		76.3
				% Local Content		% Local Content
Local Preference	10%			40%		100%
Total Weighting Applied:	100%					
Score After Local Preference				84.0		86.3
Most Competitive Offer						

Offer of Koala Contractors is assessed as the Most Competitive Offer prior to evaluation of Local Content.

Following assessment of Local Content, the Offer from Kangaroo Services (a Local Supplier) becomes the Preferred Offer.

The financial implication in accepting the Preferred Offer is \$15,000 (Kangaroo cost less Koala cost). The limitation on the financial implication for this value of work is \$14,000 as per Clause E.8.1 (\$280,000 x 5%).

The financial implication is above the threshold. The Most Competitive Offer of Koala Contractors is to be accepted.

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Example Assessments – Services

Example 3

	Firm's Name	Koala Contractors	Kangaroo Services
Total Cost to Council:	\$280,000	\$275,000	
Total Cost to Council:	50%	49.1	50.0
Other weighted criteria:			
Other weighted criteria total:	40%	35.0	28.0
Total Weighted Score:	90%	84.1	78.0
Most Competitive Offer			
		% Local Content	% Local Content
Local Preference	10%	20%	100%
Total Weighting Applied:	100%		
Score After Local Preference		86.1	88.0

Offer of Koala Contractors is assessed as the Most Competitive Offer prior to evaluation of Local Content.

Following assessment of Local Content, the Offer from Kangaroo Services (a Local Supplier) becomes the Preferred Offer.

There is no adverse financial implication in accepting the Preferred Offer as this is the lowest priced Offer (\$5,000 less). The financial limitations are therefore not applicable.

Appendix

Local Preference Policy – Procurement

Example Assessments – Goods

Example 1

	Firm's Name	Generic Wholesale	Bland Supplies
	Total Cost to Council:	\$29,600	\$30,000
	Total Cost to Council:	85%	83.9
	Other weighted criteria total:	5%	2.0
Most Competitive Offer	Total Weighted Score:	90%	85.9
		% Local Content	% Local Content
	Local Preference	0%	100%
Preferred Offer	Score After Local Preference		95.9

Offer of Generic Wholesale is assessed as the Most Competitive Offer prior to evaluation of Local Content.

Following assessment of Local Content, the Offer of Bland Supplies (a Local Supplier) becomes the Preferred Offer.

The financial implication in accepting the Preferred Offer is \$400 (Bland cost less Generic cost). The limitation on the financial implication for this value of work is \$592 as per Clause E.8.2 (\$29,600 x 2%)

The financial implication is below the threshold. The Preferred Offer of Bland Supplies is to be accepted.

Example 2

	Firm's Name	Generic Wholesale	Bland Supplies
	Total Cost to Council:	\$29,600	\$30,200
	Total Cost to Council:	85%	83.3
	Other weighted criteria total:	5%	2.0
Most Competitive Offer	Total Weighted Score:	90%	85.3
		% Local Content	% Local Content
	Local Preference	0%	100%
Preferred Offer	Score After Local Preference		95.3

Offer of Generic Wholesale is assessed as the most Competitive Offer prior to evaluation of Local Content.

Following assessment of Local Content, the Offer of Bland Supplies (a Local Supplier) becomes the Preferred Offer.

The financial implication in accepting the Preferred Offer is \$600 (Bland cost less Generic cost). The limitation on the financial implication for this value of work is \$592 as per clause E.8.2 (\$29,600 x 2%).

The financial implication is above the threshold. The Most Competitive Offer of Generic Wholesale is to be accepted.

Deleted: Supplies
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Deleted: 7

Appendix Local Preference Policy – Procurement

Example Assessments – Goods

Example 3

	Firm's Name	Generic Wholesale	Bland Supplies
		\$29,600	\$29,500
Total Cost to Council:		Score	
	Weight		
	85%	84.7	85.0
	5%	5.0	0.0
	Other weighted criteria total:		
	90%	89.7	85.0
Most Competitive Offer	Total Weighted Score:	% Local Content	% Local Content
		20%	100%
	Local Preference	2.0	10.0
	Total Weighting Applied:		
	100%		
Preferred Offer	Score After Local Preference	91.7	95.0

Offer of Generic Wholesale is assessed as the Most Competitive Offer prior to evaluation of Local Content.

Following assessment of Local Content, the Offer from Bland Supplies (a Local Supplier) becomes the Preferred Offer.

There is no adverse financial implication in accepting the Preferred Offer of Bland Supplies as this is the lowest priced Offer (\$100 less). The financial limitations are therefore not applicable.

Appendix

Local Preference Policy – Procurement

Example Assessments - Works

Example 1

	Firm's Name	ABC Constructions	XYZ Civil
	Total Cost to Council:	\$4,640,000	\$4,670,000
	Total Cost to Council:	60%	59.6
	Other weighted criteria total:	30%	24.5
Most Competitive Offer	Total Weighted Score:	90%	84.1
		% Local Content	% Local Content
	Local Preference	35%	80%
	Total Weighting Applied:	100%	
Preferred Offer	Score After Local Preference	88.5	92.1

Offer of ABC Constructions is assessed as the Most Competitive Offer prior to evaluation of Local Content.

Following assessment of Local Content, the Offer from XYZ Civil becomes the Preferred Offer.

The financial implication in accepting the Preferred Offer is \$30,000 (XYZ cost less ABC cost). The limitation on the financial implication for this value of work is \$35,000 as per Clause E.7.3 (Maximum limitation \$35K).

The financial implication is below the threshold. The Preferred Offer of XYZ Civil is to be accepted.

Example 2

	Firm's Name	ABC Constructions	XYZ Civil
	Total Cost to Council:	\$4,640,000	\$4,715,000
	Total Cost to Council:	60%	59.0
	Other weighted criteria total:	30%	24.5
Most Competitive Offer	Total Weighted Score:	90%	83.5
		% Local Content	% Local Content
	Local Preference	35%	80%
	Total Weighting Applied:	100%	
Preferred Offer	Score After Local Preference	88.5	91.5

Offer of ABC Constructions is assessed as the Most Competitive Offer prior to evaluation of Local Content.

Following assessment of Local Content, the Offer from XYZ Civil becomes the Preferred Offer.

The financial implication in accepting the Preferred Offer is \$75,000 (XYZ cost less ABC cost). The limitation on the unfavourable financial implication for this value of work is \$35,000 as per clause E.7.3 (Maximum limitation \$35K).

The financial implication is above the threshold. The Most Competitive Offer of ABC Constructions is to be accepted.

Example Assessments - Works

Example 3

	Firm's Name		ABC Constructions	XYZ Civil	Smith Building
	Total Cost to Council:				
			\$4,640,000	\$4,700,000	\$4,665,000
Total Cost to Council:	60%		60.0	59.2	59.7
Other weighted criteria total:	30%		25.0	24.5	25.0
Most Competitive Offer	90%		85.0	83.7	84.7
			% Local Content	% Local Content	% Local Content
Local Preference	10%		35%	80%	55%
Total Weighting Applied:	100%				
Preferred Offer			88.5	91.7	90.2

Offer of ABC Constructions is assessed as the Most Competitive Offer prior to evaluation of Local Content. Following assessment of Local Content, the Offer from XYZ Civil becomes the Preferred Offer.

The financial implication in accepting the Preferred Offer is **\$60,000** (XYZ cost less ABC cost). The limitation on the financial implication for this value of work is \$35,000 as per Clause E.7.3 (Maximum limitation \$35K). The financial implication is above the threshold. The Offer of XYZ Civil therefore cannot be accepted.

The Offer of Smith Building is the second ranked Preferred Offer. The financial implication in accepting the second ranked Preferred Offer is **\$25,000** (Smith cost less ABC cost). The financial implication is below the threshold. The second ranked Preferred Offer of Smith Building is to be accepted.

3.4 Policy for Use of Mayoral Chains

TRIM REFERENCE: F2004/07011 - D03343880

MANAGER:

AUTHOR: Lesley Crawley; Manager Corporate Governance

SUMMARY

Proposing the adoption of a policy for the use of the Mayoral Chains

RECOMMENDATION

That Council adopt the Policy for the Use of Mayoral Chains.

BACKGROUND

Council at its meeting on 12 December 2012 considered Item 7.12 - Australian Chinese Theme Park Purchase of Council Land and resolved, in part, follows:

"675/12 That Council establishes a delegation which will travel to China in late May 2013 consisting of interested Councillors and their spouses, the General Manager or his delegate and other significant interested local stakeholders to further develop trade, investment and tourism relationships and provide a different perspective on development, transportation and government."

Council at its meeting on 13 March 2013 considered a report and recommendations from the Employment and Economic Development Committee and resolved as follows:

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

282/13 That Council receive the report on Delegation to China.

283/13 That Council endorse the arrangements for Council's delegation to China.

284/13 That Council develop a Code of Conduct/ indemnity form for all delegates for completion prior to the commencement of the trip.

285/13 That Council note all delegates and accompanying persons are funding their own travel, accommodation and expenses.

286/13 That Council purchase a standard Mayor chains as per other Councils.

287/13 That Council request the General Manager to report to Council the circumstances in which the chains of office will be worn."

CURRENT STATUS

The Mayoral Chains have been commissioned and are currently being manufactured.

A policy which establishes the circumstances under which the Mayoral Chains will be worn has been prepared and is attached.

PROPOSAL

It is proposed that Council adopt the attached draft Policy for Use of Mayoral Chains. The policy confirms the circumstances under which the Mayoral Chains will be worn. The relevant clauses of the policy are listed below:

- "D3 The Mayor of the day will decide whether to wear the Mayoral Chain during his or her term of office.*
- D4 If the Mayor supports the practice, he/she will have the discretion to determine when and where to wear the Mayoral Chain within the following limits;*
- a Official Swearing in of the Mayor in the Council Chambers.*
 - b Citizenship ceremonies held in the Shire.*
 - c Formal functions where the Mayor has been invited to address gatherings of one hundred or more citizens/guests.*
 - d As a representative of WSC of official functions organised by Local, State and Federal Government representatives, the Prime Minister, Governor General, NSW Governor, Premier, Ambassadors of State, Foreign dignitaries, Business Groups/Associations etc., as may be deemed appropriate.*
 - e As a representative of WSC at graduations and dedication ceremonies held by universities and institutes of education.*
 - f Australia Day ceremonies.*
 - g Ceremonies associated with state or national Local government Association Conferences and/or Assemblies.*
 - h Any Civic ceremonies that requires the formality for the Mayoral Chain to be worn by the Mayor.*
 - i Presentation of Citizen of the Year Awards and other Awards of Honour, issued by WSC.*
 - j For the purpose of official portraits of the Mayor.*
 - k As a representative of WSC as part of a delegation travelling outside Australia approved by Council resolution.*
 - l Or otherwise agreed to from time to time by a Council resolution.*

3.4 Policy for Use of Mayoral Chains (contd)

m At full Council meetings and other approved meetings/receptions.

D5 The Mayoral Chains are not to be worn by any other elected Councillors, WSC staff or citizens.

D6 The Mayoral Chains are to be regarded as an asset of Wyong Shire Council.”

Relevant procedures in the policy are as follows:

E3 The Mayoral Chain must be kept in a secured area in the Mayor’s Office and the Executive Assistant to the Mayor will be the custodian for its safe keeping.

E4 The Mayor will be responsible for the safe keeping of the Mayoral Chain while they are in his/her possession.

E5 All former Mayors on the completion of their time with Council are to have their full name and period that they were Mayor inscribed once on the Mayoral Chain.

E6 The General Manager and/or his delegate will be responsible for ensuring the maintenance of the Mayoral Chain and arranging necessary packaging of the Mayoral Chain.

E7 The General Manager and/or his delegate will be responsible for engraving the Mayor’s name on the Mayoral Chain together with the period in office.

OPTIONS

Council may adopt the Policy as presented or make amendments as it sees fit.

STRATEGIC LINKS

Nil

CONSULTATION

Nil

GOVERNANCE AND POLICY IMPLICATIONS

This policy is an appropriate governance mechanism to manage the use of the Mayoral Chains in accordance with the decisions of the Council.

MATERIAL RISKS AND ISSUES

The policy includes a mechanism to appoint the General Manager or his delegate to manage the appropriate upkeep and storage of the Chains.

CONCLUSION

The Council has resolved to purchase Mayoral Chains as a symbolic representation of the Mayoral Office as a representative of the whole community.

A policy has been prepared which governs the usage of the Chains.

ATTACHMENTS

- 1 Draft Policy Use of Mayoral Chains D03344081



POLICY No: WSC108

POLICY FOR USE OF MAYORAL CHAIN

© Wyong Shire Council
Wyong Shire Council
2 Hely Street Wyong
PO Box 20 Wyong NSW 2259
P 02 4350 5555 **F** 02 4351 2098
E wsc@wyong.nsw.gov.au
W www.wyong.nsw.gov.au





AUTHORITY	NAME & TITLE	SIGNATURE	DATE
AUTHOR	Stefano Laface, Executive Manager to General Manager		
MANAGER			
DIRECTOR			
GENERAL MANAGER	Michael Whittaker		
MAYOR (IF APPLICABLE)			

History of Revisions:

Version	Date	TRIM Doc. #
1	30 April 2013	

A. POLICY SUMMARY

A1 This document sets out Council's policy in relation to use of the Mayoral chain.

B. OBJECTIVE

B1 To outline the protocol for the use of the Mayoral chain.

C. DEFINITIONS

C1 **Council** means the elected representatives, Councillors, who form the governing body of Wyong Shire Council.

C2 **WSC** means Wyong Shire Council, being the organisation responsible for the administration of Council affairs and operations and the implementation of Council policy and strategies.

C3 **Mayoral Chain** means the chain adopted and recognised by Council as the Mayoral Chain.

D. POLICY STATEMENTS**Jurisdiction**

D1 This Policy covers all elected members of WSC, all personnel employed by WSC, any person or organisation contracted to or acting on behalf of WSC, any person or organisation employed to work on WSC premises or facilities and all activities of the WSC.

D2 This policy does not confer any delegated authority upon any person. All delegations to staff are issued by the General Manager.

General

D3 The Mayor of the day will decide whether to wear the Mayoral Chain during his or her term of office.

D4 If the Mayor supports the practice, he/she will have the discretion to determine when and where to wear the Mayoral Chain within the following limits;

- a. Official Swearing in of the Mayor in the Council Chambers
- b. Citizenship ceremonies held in the Shire
- c. Formal functions where the Mayor has been invited to address gatherings of one hundred or more citizens/guests.
- d. As a representative of WSC of official functions organised by Local, State and Federal Government representatives, the Prime Minister, Governor General, NSW Governor, Premier, Ambassadors of State, Foreign dignitaries, Business Groups/Associations etc., as may be deemed appropriate.
- e. As a representative of WSC at graduations and dedication ceremonies held by universities and institutes of education
- f. Australia Day ceremonies
- g. Ceremonies associated with state or national Local government Association Conferences and/or Assemblies.

- h. Any Civic ceremonies that requires the formality for the Mayoral Chain to be worn by the Mayor.
- i. Presentation of Citizen of the Year Awards and other Awards of Honour, issued by WSC.
- j. For the purpose of official portraits of the Mayor.
- k. As a representative of WSC as part of a delegation travelling outside Australia approved by Council resolution.
- l. Or otherwise agreed to from time to time by a Council resolution.
- m. At full Council meetings and other approved meetings/receptions.

D5 The Mayoral Chain is not to be worn by any other elected Councillors, WSC staff or citizens.

D6 The Mayoral Chain is to be regarded as an asset of Wyong Shire Council.

E. IMPLEMENTATION - PROCEDURES

E1 Council may review this policy at any time but unless otherwise requested at least every four (4) years from date of adoption.

E2 It is the personal responsibility of all WSC employees and agents thereof to have knowledge of, and to ensure compliance with this policy.

E3 The Mayoral Chain must be kept in a secured area in the Mayor's Office and the Executive Assistant to the Mayor will be the custodian for its safe keeping.

E4 The Mayor will be responsible for the safe keeping of the Mayoral Chain while it is in his/her possession.

E5 All former Mayors on the completion of their time with Council are to have their full name and period that they were Mayor inscribed once on the Mayoral Chain.

E6 The General Manager and/or his delegate will be responsible for ensuring the maintenance of the Mayoral Chain and arranging necessary packaging of the Mayoral Chain..

E7 The General Manager and/or his delegate will be responsible for engraving the Mayor's name on the Mayoral Chain together with the period in office.

E8 This Policy should be read in conjunction with WSC's Code of Conduct.

E9 Associated Documents:

- WSC Code of Conduct

3.5 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2013/01723 - D03321961
MANAGER: Lesley Crawley; Manager Corporate Governance
AUTHOR: Lisa Martin; Administration Assistant

SUMMARY

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

RECOMMENDATION

That Council allocate an amount of \$11,172.00 from the 2012-13 Councillors' Community Improvement Grants as follows:

<i>Proposed allocations for 8 May 2013</i>		
<i>Adam Molch Hillier Memorial Surf Classic (\$1200)</i>	<i>To cover running costs of surfing competition.</i>	<i>100.00</i>
<i>Budgewoi Beach Dunecare Inc. (\$700) (\$50 already allocated)</i>	<i>Purchase a cordless 18volt 2 pack hammer drill set to replace 1200 watt generator & drill units.</i>	<i>650.00</i>
<i>Central Coast Alternative Care Group Ltd (t/a Coastlink Respite Care) (\$999.39)</i>	<i>To construct garden beds in the rear garden of Myrtle Brush Park Community Hall for disabled clients to use.</i>	<i>600.00</i>
<i>Central Coast Group Training (\$2000)</i>	<i>Awards Night</i>	<i>1,000.00</i>
<i>China Australia Friendship Association (\$2000)</i>	<i>Chinese Cooking Classes</i>	<i>2,000.00</i>
<i>Chittaway Bay Public School P&C Association Incorporated (\$1898)</i>	<i>Stage 3 of the Special Education Unit's Sensory Garden, Fruit and Vegetable Garden/Mini Farm</i>	<i>600.00</i>
<i>Killarney Vale AFC Inc trading as Central Coast Bombers (\$1000)</i>	<i>Outdoor gas catering BBQ</i>	<i>600.00</i>
<i>Lions Club of Wyong (\$2000) (\$100 already allocated)</i>	<i>District 2013 Lions Convention - Camp Breakaway - November 2013</i>	<i>300.00</i>
<i>Northern Lakes Disability Tourism Precinct Committee Inc (\$572) (\$300 already allocated)</i>	<i>2 signs to be installed at Lakes Beach Café to promote the availability of beach wheelchairs for free use to the disabled to access the beach.</i>	<i>272.00</i>
<i>St Marks Uniting Church Mannering Park (\$2000)</i>	<i>Install new disabled toilet and storage room</i>	<i>700.00</i>
<i>Taioto Marae Association Inc. (\$500)</i>	<i>Grandparents 'Christmas in July'</i>	<i>500.00</i>

<i>Toukley and District Senior Citizens Club Inc. (\$750)</i>	<i>Purchase of table tennis tables and nets.</i>	<i>750.00</i>
<i>Tuggerah Lakes Choral Society (\$2000)</i>	<i>Publicity costs for the choir, insurances, accompanist fees and hall rental for proposed function to celebrate Ronald Brelsford's 100th birthday and the 40th anniversary of the choir.</i>	<i>600.00</i>
<i>Warnervale Rugby Union Club (\$2000)</i>	<i>Scrum Machine</i>	<i>2,000.00</i>
<i>Wyong Shire Council (\$500) (Emergency approved by GM)</i>	<i>Anzac Essay Competition</i>	<i>500.00</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.

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

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

THE PROPOSAL

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

3.5 Proposed Councillors' Community Improvement Grants (contd)

The proposed allocations are listed below:

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Edron	Graham	Greenwald	Matthews	Nayna	Taylor	Troy	Vincent	Webster	SUB TOTAL
Allocation 01/01/2012 - 30/06/2013		7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	75,000.00
Expenditure up to and including Ordinary Council Meeting of 10/04/13		3,690.00	1,600.00	3,600.00	2,635.17	5,530.00	1,400.00	400.00	1,550.00	5,650.00	4,407.02	30,462.19
Available allocation as at 10 April 2013		3,810.00	5,900.00	3,900.00	4,864.83	1,970.00	6,100.00	7,100.00	5,950.00	1,850.00	3,092.98	44,537.81
Proposed allocations for 8 May 2013												
Adam Molch Hillier Memorial Surf Classic (\$1200)	To cover running costs of surfing competition.	100.00										100.00
Budgewoi Beach Dunecare Inc. (\$700) (\$50 already allocated)	Purchase a cordless 18volt 2 pack hammer drill set to replace 1200 watt generator & drill units.				300.00		100.00			250.00		650.00
Central Coast Alternative Care Group Ltd (v/a Coastlink Respite Care) (\$999.39)	To construct garden beds in the rear garden of Myrtle Brush Park Community Hall for disabled clients to use.	100.00			500.00							600.00
Central Coast Group Training (\$2000)	Awards Night		1,000.00									1,000.00
China Australia Friendship Association (\$2000)	Chinese Cooking Classes	500.00					500.00		500.00		500.00	2,000.00
Chittaway Bay Public School P&C Association Incorporated (\$1898)	Stage 3 of the Special Education Unit's Sensory Garden, Fruit and Vegetable Garden/Mini Farm	100.00				500.00						600.00
Killarney Vale AFC Inc trading as Central Coast Bombers (\$1000)	Outdoor gas catering BBQ	100.00					500.00					600.00
Lions Club of Wyong (\$2000) (\$100 already allocated)	District 2013 Lions Convention - Camp Breakaway - November 2013				300.00							300.00
Northern Lakes Disability Tourism Precinct Committee Inc (\$572) (\$300 already allocated)	2 signs to be installed at Lakes Beach Café to promote the availability of beach wheelchairs for free use to the disabled to access the beach.									272.00		272.00
St Marks Uniting Church Mannering Park (\$2000)	Install new disabled toilet and storage room	200.00					500.00					700.00
Tairoto Marae Association Inc. (\$500)	Grandparents 'Christmas in July'	100.00	200.00			200.00						500.00
Toukley and District Senior Citizens Club Inc. (\$750)	Purchase of table tennis tables and nets.	750.00										750.00
Tuggerah Lakes Choral Society (\$2000)	Publicity costs for the choir, insurances, accompanist fees and hall rental for proposed function to celebrate Ronald Brelford's 100th birthday and the 40th anniversary of the choir.	100.00	500.00									600.00
Warnervale Rugby Union Club (\$2000)	Scrum Machine						500.00	500.00	500.00		500.00	2,000.00
Wyong Shire Council (\$500) (Emergency approved by GM)	Anzac Essay Competition										500.00	500.00
Total Proposed Allocations for 8 May 2013		2,050.00	1,700.00	0.00	1,100.00	700.00	2,100.00	500.00	1,000.00	522.00	1,500.00	11,172.00
Total Accumulated Allocations as at 8 May 2013		5,740.00	3,300.00	3,600.00	3,735.17	6,230.00	3,500.00	900.00	2,550.00	6,172.00	5,907.02	41,634.19
Balance Uncommitted as at 8 May 2013		1,760.00	4,200.00	3,900.00	3,764.83	1,270.00	4,000.00	6,600.00	4,950.00	1,328.00	1,592.98	33,365.81

OPTIONS

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

STRATEGIC LINKS

Annual Plan

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

Contribution of Proposal to the Principal Activity

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

Link to Shire Strategic Vision

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

Financial Implications

Expenditure is approved until the end of the 2012-13 financial year. Unspent approvals lapse 31 May 2013.

Principles of Sustainability

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

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

CONSULTATION

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

GOVERNANCE

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

CORPORATE RISKS

Nil impact.

CONCLUSION

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

ATTACHMENTS

Nil

3.6 Disclosure of Interest Returns - 1 January to 31 March 2013

TRIM REFERENCE: F2012/01361 - D03251133
MANAGER: Lesley Crawley, Manager Corporate Governance
AUTHOR: Sonia Witt; TL Governance and Councillor Services

SUMMARY

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

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

RECOMMENDATION

That Council receive the report on Disclosure of Interest Returns – 1 January to 31 March 2013.

BACKGROUND

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

Section 450A(2)(a) also specifies that the General Manager must table the returns lodged under Section 449(1). The returns for the period 1 January to 31 March 2013 are now tabled.

NB

Sections 449(1) and (5) of the Local Government Act, 1993 - Disclosure of Interest Returns for Councillors and Designated Persons to be lodged with GM
Section 450A(1) – register required of the Disclosure of Interest Returns lodged.
Section 450A(2) - Returns lodged with the General Manager under section 449(1) to be tabled at a meeting of Council.

ATTACHMENTS

- 1 List of Disclosures of Interest 1 January to 31 March 2013 D03251138

**Disclosures of Interest
1 January to 31 March 2013**

Councillors

-

Staff

Alam S (resignation)
Bignell T
Brogan P (resignation)
Davies P
Delgatto T
Hinds J (resignation)
Kenyon G (resignation)

3.7 Support of United Services Union Skills Shortage and Aging Workforce Campaign

TRIM REFERENCE: F2011/01481 - D03332097
MANAGER: Michael Whittaker, General Manager
AUTHOR: Marie Hanson-Kentwell; Manager Human Resources

SUMMARY

This report provides a response to the letter received by WSC General Manager on 9 April 2013 seeking support for the USU report - NSW Local Government Next Generation of Employees Report 2012.

RECOMMENDATION

- 1** *That Council support the campaign by the United Services Union to address the national skills shortage and the aging workforce of local councils.*
- 2** *That Council demonstrate commitment to the issues outlined in the report through the continued implementation of the WSC Youth Employment Strategy which was endorsed by Council on 24 October 2012.*

BACKGROUND

On 22 July 2009 Council resolved "That Council adopt a long term youth employment target of 15% of its workforce".

On 24 October 2012, Council resolved to "adopt the WSC (2012-2016) Youth Employment Strategy".

The objectives of the strategy are to:

- 1 Ensure the workforce pipeline for Wyong Shire Council (WSC) is adequately supplied.
- 2 Provide the opportunity for local youth to gain experience and qualifications that can be transferred to any employer to improve their future career prospects.
- 3 Reduce the impact of our aging workforce by focusing on activities that initiate grass root succession planning.

The strategy contains a framework intended as the leading guidance for employing youth within WSC. The framework contains a suite of 15 activities that assist youth in establishing a career pathway, and 24 recommendations to be implemented by 2016.

3.7 Support of United Services Union Skills Shortage and Aging Workforce Campaign (contd)

On 9 April a letter was sent to WSC General Manager from the General Secretary of the United Services Union (USU) requesting that Council consider a motion in support of the USU report - NSW Local Government Next Generation of Employees Report 2012. The USU report outlines identified local government gaps in Apprenticeship and Traineeships as well as highlighting the benefits of such forms of employment for the community and calls for Councils to:

- 1 "set a target of a minimum 5% engagement of youth in the categories of apprentices, trainees, scholarships, interns, work experience, school based traineeships or mature age study assistance".
- 2 Recommend "a retention/ succession plan for youth employees in the above mentioned categories. Including mandatory mentoring training for designated council staff supervising these young employees".

CURRENT STATUS

At 31 March 2013, 7.1% of the current WSC workforce, including apprentices, is represented by youth and Council is moving towards a goal of 10% by the end of 2016, with a long term view of 15%.

WSC has implemented activities outlined in the Youth Employment Strategy (YES) with a total participation rate of 10.7% of employee headcount (not including work experience opportunities), which is well beyond the 5% recommended in the USU report.

Each of the implemented YES activities correlates to one of four framework elements outlined in the strategy:

- 1 Exposure (pre-employment) - This element provides opportunities for youth to experience WSC prior to paid employment through three activities.

Exposure Activity	Participation
Work experience, school volunteer program	38 financial year to date
Career Expos	2 attended

- 2 Engagement (Transition to employment through temporary employment): This element provides opportunities for youth to participate in paid employment on a temporary and/or part time basis while undertaking, or just following, completion of vocational or tertiary studies.

Engagement Activity	Participation
Apprenticeships	19
Temporary Traineeships	12
Scholarships	4
Internships	8
School based traineeships/ apprenticeships	View to implement by 2016
Graduate program	View to implement by 2016

- 3 Employment (permanent employment): This element provides opportunities for youth to participate in full time permanent employment in a suitable role within WSC and access programs which will support their lifelong learning through continued personal and professional development.

Employment Activity	Participation
Study assistance	19
Mentoring program	View to implement by 2016
Professional development	An annual calendar of events is implemented which includes "coaching and mentoring" training.
Accredited training programs (including Leadership development and other group offerings)	33

- 4 Exit (external career consolidation and transfer of skills and knowledge): This element recognises that the youth WSC employees will sometimes choose to exit our employment for a number of reasons including; career break, further education or other career opportunities. It also recognises that after temporary employment opportunities and the attainment of further work experience and skills gained during this period of employment, employees will be in a position to take these skills into other local employment opportunities. There are no activities under this element.

THE PROPOSAL

That WSC support the campaign by the United Services Union to address the national skills shortage and aging workforce of local councils.

That WSC demonstrate this commitment by the continued implementation of the WSC Youth Employment Strategy which was endorsed by council on 24 October 2012.

STRATEGIC LINKS

Wyong Shire Council Strategic/ Annual Plan

The YES activities are incorporated into the annual plan.

Asset Management Strategy

Nil impact

Workforce Management Strategy

The Youth Employment Strategy is an integral part of Council's Workforce Management Strategy

Budget Impact

None. The Youth Employment Strategy is designed to be cost neutral whilst providing increased value for Council through the realisation of the objectives), and encouragement and support for the education and career planning for youth.

CONSULTATION

Not applicable.

GOVERNANCE AND POLICY IMPLICATIONS

Not applicable.

MATERIAL RISKS AND ISSUES

Not applicable.

CONCLUSION

The recommendations from the United Services Union are aligned to the WSC Youth Employment Strategy, noting that WSC goals of employment and engagement of youth exceed the 5% recommended by the USU.

WSC has demonstrated commitment to employment and training of youth through the implementation of the programs outlined in the 2012-2016 WSC Youth Employment Strategy.

Council has previously endorsed the WSC Youth Employment Strategy.

Council's current youth employment rate of 7.1% of the current WSC workforce (at 31 March 2013), including apprentices is moving towards a goal of 10% by the end of 2016, with a long term view of 15%.

ATTACHMENTS

- 1 United Services Union Letter Canterbury City Council Minutes 13 December 2012

D03320244



New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union

Our Ref: 090413.Skills.RP.jd

09 April 2013

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

cc: USU Delegate

Dear Sir/Madam

RE: ADDRESSING THE NATIONAL SKILLS SHORTAGE IN LOCAL GOVERNMENT

Canterbury City Council has recently identified the issue of an ageing workforce and youth unemployment in their community. Attached are the minutes of their recent Council meeting 13th December 2012. The motion that was unanimously carried has paved the way for a state wide approach to sustaining a productive workforce in Local Government.

The United Services Union (USU) has launched a report (NSW Local Government Next Generation of Employees Report 2012) which can be found on-line at <http://www.usu.org.au/news/local-government/382-usu-nsw-councils-need-more-apprentices>.

This report identified the gaps in Apprenticeships and Traineeships as well as highlighting the benefits of such forms of employment for the community.

We strongly encourage that the attached motion is considered at your upcoming Council meeting.

The USU is seeking your support for this motion.

If you require any further information please contact Robert Potter on 0408620741 or 0249621444.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Graeme Kelly', written over a white background.

Graeme Kelly
General Secretary

per: RP

Support Team: 1300 136 604 • Email: united@usu.org.au • Website: www.usu.org.au

Registered Office: Level 7, 321 Pitt St Sydney 2000 • Phone: (02) 9265 8211 • Fax: (02) 9261 2265 • ABN: 95 571 805 442

Regional Offices: Newcastle, Wollongong. Satellite Offices: Armidale, Bathurst, Canberra, Dubbo, Grafton, Hay, Port Macquarie, Wagga Wagga

MINUTES OF THE ORDINARY MEETING OF THE CANTERBURY CITY COUNCIL, HELD IN THE COUNCIL CHAMBERS, 137 BEAMISH STREET, CAMPSIE ON THURSDAY, 13 DECEMBER 2012 AT 7.40 P.M.

PRESENT

The Mayor, Councillor B. Robson, in the Chair, the Deputy Mayor, Councillor K. Saleh and Councillors M. Adler, P. Azzi, L. Eisler, M. Hawatt, F. Kebbe, K. Nam, E. Paschalidis-Chilas and C. Vasiliades.

45/12

CAMPAIGN TO ADDRESS THE NATIONAL SKILLS SHORTAGE IN LOCAL GOVERNMENT

FILE NO: C-123-6 PT4, U-7-3 PT6

Min. No. 423 RESOLVED (Councillors Adler/Kebbe)

THAT

1. Canterbury City Council supports the campaign by the United Services Union (USU) to address the national skills shortage in local government and the ageing workforce in local councils.
2. Accordingly Council resolves:
 - a. To set a target of a minimum five percent engagement of youth employment in the categories of apprentices, trainees, scholarships, interns, work experience, school based traineeships or mature age study assistance;
 - b. To support the establishment of a retention/succession plan for youth employees in the abovementioned categories, including mandatory mentoring training for designated council staff supervising these young employees.
3. Council further resolves to seek federal government assistance for local councils to implement the above policies.
4. Council calls on all NSW councils to adopt this policy.
5. The content of this motion be conveyed in writing to the Local Government Association, the federal minister, the local state and federal MPs and the United Services Union.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012

TRIM REFERENCE: F2008/00774-06 - D03335465

MANAGER: Martin Johnson, Manager Strategic Development

AUTHOR: Kathryn Heintz, Senior Strategic Planner

SUMMARY

This report seeks Council's endorsement of draft Wyong Local Environmental Plan (LEP) 2012, draft Settlement Strategy and draft Wyong Development Control Plan (DCP) 2012 as amended in accordance with the matters raised in this report and summarised in Enclosures 1 and 2.

This will enable a submission to be provided to the Department of Planning & Infrastructure (DP&I) requesting that the Minister for Planning and Infrastructure make the draft LEP. Notification on the NSW Legislation website (making) of the draft Wyong LEP 2012 will ensure that the current Wyong LEP 1991 is replaced by a modernised, rationalised and more flexible LEP consistent with the *Standard Instrument—Principal Local Environmental Plan* (Standard Instrument).

Adoption of the draft Wyong LEP 2012 will provide one contemporary LEP for Wyong Shire, using standard land use zones and land use definitions. Adoption of the draft Settlement Strategy will provide Wyong with a blueprint for the growth of the Local Government Area (LGA) with accessible and reliable transport, a strong regional economy, a vibrant community and a healthy natural environment. Adoption of draft Wyong DCP 2012 will enable Council to replace the current Wyong DCP 2005 with a simplified plan providing performance standards and objectives for a broad range of activities and land uses.

The draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012 were publicly exhibited from 9 January 2013 - 20 February 2013. This included a public hearing held on 2 April 2013. All submissions received until 12 April 2013 were given full consideration, in order to provide the community with the longest possible time period in which to comment. This report outlines the findings of the public exhibition period, details recommended amendments to the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012, and outlines the next steps to finalise these documents.

RECOMMENDATION

- 1 That Council *endorse* the recommendations contained in Enclosures 1 and 2 and as set out within this report, in response to the public exhibition of the draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012.**

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

- 2 ***That Council note the findings of the Public Hearings held under Section 29 and 47G(2) of the Local Government Act 1993 and Section 68 of the Environmental Planning and Assessment Act 1979 in relation to the reclassification of public land and the public exhibition of the draft Wyong Local Environmental Plan 2012 and draft Settlement Strategy, as detailed in Enclosure 3.***
- 3 ***That Council endorse the recommendations in response to the Public Hearings, as detailed in this report.***
- 4 ***That Council resolve that re-exhibition of the amended draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 is not required as the amendments are in response to submissions made during public exhibition or to meet legislative requirements, and are not significant.***
- 5 ***That Council resolve to submit draft Wyong Local Environmental Plan 2012, as amended in accordance with the matters raised in this report and within Enclosures 1 and 2, to the Director-General of the Department of Planning and Infrastructure, in accordance with Section 68 of the Environmental Planning and Assessment Act 1979.***
- 6 ***That Council request the Director-General of the Department of Planning and Infrastructure to submit a report under the provisions of Section 69 of the Environmental Planning and Assessment Act 1979 recommending that the Minister for Planning and Infrastructure make the draft Wyong Local Environmental Plan 2012.***
- 7 ***That Council endorse the draft Wyong DCP 2012 – Development Provisions for Wyong Shire, as amended in accordance with the matters raised in this report and within Enclosures 1 and 2, and give appropriate public notice within 28 days that the draft DCP will come into effect on the date the draft Wyong LEP 2012 comes into effect.***
- 8 ***That Council endorse the draft Settlement Strategy, as amended in accordance with the matters raised in this report and within Enclosures 1 and 2.***
- 9 ***That all persons who lodged a submission be advised of Council’s resolution in relation to draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012.***
- 10 ***That Council forward a copy of draft Wyong Development Control Plan 2012 to the Director General of the NSW Department of Planning & Infrastructure within 28 days of the draft DCP coming into effect.***
- 11 ***That Council note Section 149 Certificates as to the adoption of draft Wyong Development Control Plan 2012.***

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

- 12 That Council resolve that the General Manager, in consultation with the Mayor, may make other minor alterations to the draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012, as deemed necessary.**
- 13 That Council endorse a review of Policy P1 Potentially Contaminated Land to require any development application for residential, educational, recreational, child care purposes, or for a hospital to be assessed in accordance with Clause 7 of State Environmental Planning Policy 55 – Remediation of Land.**

BACKGROUND

Draft Wyong LEP 2012 and draft Settlement Strategy

Planning Reforms implemented by the former NSW State Government require each Council in NSW to prepare a new LEP that is consistent with the Standard Instrument. The Standard Instrument prescribes standard definitions, zones, zone objectives, and mandates clauses, and permitted and prohibited land uses.

Council endorsed the preparation of the draft Wyong LEP 2012 (in accordance with the Standard Instrument) and draft Settlement Strategy in March 2009. In December 2011, these documents were provided to public authorities and agencies for comment under Section 62 of the Environmental Planning and Assessment Act 1979 (EP&A Act) (as amended), and in this same month Council also authorised the General Manager to submit the draft Wyong LEP 2012, draft Settlement Strategy, and supporting documentation to the DP&I, requesting a Section 65 Certificate to enable these documents to be placed on public exhibition.

Council submitted all relevant documentation to the DP&I on 26 October 2012 and formally requested that a Section 65 certificate be issued, to enable the public exhibition of the draft Wyong LEP 2012 and draft Settlement Strategy. A conditional certificate was issued to Council on 28 November 2012 and was publicly exhibited with the draft Wyong LEP 2012. Council's permission to exhibiting the Plan was conditional upon the following key changes to draft Wyong LEP 2012:

- (a) *Change zoning of the proposed rural-residential area north of Sandra Street, Jilliby from R5 Large Lot Residential to a zone that is equivalent to its current zoning under Wyong LEP 1991.*
- (b) *Change zoning of the proposed new RU6 Transition sites that are outside of the North Wyong Shire Structure Plan area to a zone that is equivalent to its current zoning under Wyong LEP 1991.*
- (c) *Change zoning of the proposed Warnervale Town Centre to align with the adopted State DCP for this site.*
- (d) *Identify a height limit for all mapped key sites on the Height of Building maps and a maximum height limit that can be achieved for each site through application of Clause 7.8 on the Key Sites maps.*

A formal legal opinion of the draft Wyong LEP 2012 has not been issued by Parliamentary Counsel at this stage. As a result, draft Wyong LEP 2012 may be altered following Parliamentary Counsel legal opinion having regard to legal drafting requirements.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

The DP&I also indicated they would like to work with Council on some aspects of the draft Settlement Strategy, including the rural residential areas, the proposed airport, out of centres commercial development and consistency with s.117 directions, including mine subsidence. The draft Settlement Strategy will be considered for endorsement by DP&I should Council resolve to adopt the amended Strategy.

On 12 December 2012, Council endorsed the draft Wyong LEP 2012 and supporting documentation, as certified by the DP&I, to be placed on public exhibition for a minimum of 6 weeks pursuant to Section 66 of the EP&A Act (as amended). As a result, the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012 were exhibited from 9 January 2013 to 20 February 2013. This represents a 42-day exhibition period, 2 weeks longer than the minimum 28-day period prescribed by Clause 13 of the *Environmental Planning & Assessment Regulation, 2000* (as amended). It should also be noted that submissions continued to be accepted and considered until 12 April 2013.

Draft Wyong DCP 2012

Draft Wyong DCP 2012 relates to the whole of the LGA and has been prepared to complement and supplement the controls within the draft Wyong LEP 2012. It comprises a summary and compilation of the controls and issues within the existing Wyong DCP 2005 and incorporates relevant additional Council policy directions and requirements arising from adopted development strategies. It has been prepared in a simplified and consistent style and format, with controls supported by relevant development objectives. The draft Wyong DCP 2012 is intended to be a web-based document, which enables relevant provisions to be hyperlinked to more detailed explanations in other relevant sections, thereby reducing repetition and overall bulk.

This document fits within a hierarchy of environmental planning documents reflected in the current legislation, consisting of State Environmental Planning Policies (SEPPs) and other State level strategies, Regional Plans and Strategies (including the Central Coast Regional Strategy), LEPs and DCPs. Strategies and structure plans also have a place within the hierarchy, even if not reflected in the current legislation, for example, the North Wyong Shire Structure Plan (NWSSP) prepared by the DP&I, and Council adopted planning strategies, such as The Entrance Peninsula Planning Strategy (TEPPS), the Wyong-Tuggerah Strategy and the Toukley Strategy.

The draft Wyong DCP 2012 is required to be prepared in accordance with and reflect the recommendations and outcomes of all of the above Plans and Strategies. The DCP must also incorporate the direction and requirements of plans prepared in accordance with other planning relating legislation, for example the Coastal Zone Management Plan (prepared under the Coastal Protection Act).

The purpose of this document is to reflect all of the abovementioned strategic level documents and provide more detailed requirements, development provisions, guidance and performance standards and objectives for a broad range of activities and land uses. It must be consistent with the provisions of the draft Wyong LEP 2012.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

On 8 February 2012, Council endorsed the public exhibition of draft Wyong DCP 2012 – Development Provisions for Wyong Shire, resolving to place it on public exhibition concurrently with the draft Wyong LEP 2012 and draft Settlement Strategy. It is intended that the DCP will become effective on the date the draft Wyong LEP 2012 comes into effect. This will be identified by a public notice in the Central Coast Express Advocate.

CURRENT STATUS

The draft Wyong LEP 2012 has recently completed public exhibition under the provisions of Section 66 of the EP&A Act (as amended) and may now be provided to the DP&I pursuant to Section 68 of that Act (as amended). The draft Settlement Strategy and draft Wyong DCP 2012 were exhibited alongside the draft Wyong LEP 2012 as supporting documents – these do not need to be provided to the DP&I pursuant to Section 68 of that Act (as amended). However, these documents do need to be endorsed and adopted by Council.

THE PROPOSAL

Standard Instrument—Principal Local Environmental Plan (Standard Instrument)

The draft Wyong LEP 2012 is required to be consistent with the format and content outlined within the Standard Instrument. The Instrument prescribes standard definitions, identifies the available range of zones and certain zone objectives, and mandates permitted and prohibited land uses. The Standard Instrument includes 35 land use zones that Councils can utilise, or choose not to utilise. Each zone contains core objectives and land uses. Local objectives and land uses may be added however these must be consistent with those that are mandatory. As the Standard Instrument applies across the state, not all zones are applicable to Wyong LGA, and Wyong has adopted 28 zones for the purpose of draft Wyong LEP 2012.

As required by the DP&I, the draft Wyong LEP 2012 is colour coded. The mandatory provisions of the Standard Instrument are shown in black text, while red text represents local matters specific to Wyong LGA, or DP&I Settled Model Local Clauses that are yet to be included within the Standard Instrument template.

The Standard Instrument will be subject to further amendments, as the State Government introduces new legislation and guidelines and it is important to note that there will be ongoing amendments to the Standard Instrument after the proposed draft Wyong LEP 2012 is made.

Wyong Local Environmental Plan 1991 – Conversion to Standard Instrument

Wyong Local Environmental Plan 1991 (Wyong LEP 1991) is the principal planning instrument that currently applies to the Wyong LGA. Wyong LEP 1991 establishes a framework for a range of land use activities that occur within the Shire. The NSW Planning Reforms and Standard Instrument have provided an opportunity to undertake a major review of the provisions of Wyong LEP 1991.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

The conversion of Wyong LEP 1991 to draft Wyong LEP 2012 in accordance with the Standard Instrument has been an extensive and complex process. This has involved the conversion of Wyong LEP 1991 into the new template, to the extent that this has been practically possible, as supplemented by strategy recommendations. Where a direct conversion has not been possible, alternative zones, clauses, land uses or objectives have been included within draft Wyong LEP 2012 to incorporate comparable provisions and permissible land uses within that plan.

On 14 December 2011, a detailed report was provided to Council outlining the conversion process from Wyong LEP 1991 to draft Wyong LEP 2012. In summary the following was undertaken during the conversion process:

- Recommended appropriate zones to adopt;
- Included additional local zone objectives which provide greater explanation and detail to the standard zone objectives. This has allowed council to outline its vision for land-use in the zone, taking into account local factors;
- Added a number of additional permitted or prohibited land uses for each zone in the land use table having regard to permissible land uses within Wyong LEP 1991, and the variation in land use definitions between the Standard Instrument and Wyong LEP 1991, and the need to provide greater flexibility within zones;
- Prepared additional local provisions that address local planning issues and which reflect the outcomes of local and Regional Strategies;
- Inserted local criteria and standards into a number of compulsory clauses;
- Included Heritage items within Schedule 5;
- Compared Wyong LEP 1991 Definitions to Standard Instrument Definitions;
- Updating the draft Wyong LEP 2012 to incorporate those amendments contained within Standard Instrument (Local Environmental Plans) Amendment Order 2011 published on 25 February 2011.

The preparation of draft Wyong LEP 2012 has also recognised the need for the new LEP to be flexible and adaptable to future development opportunities, yet at the same time recognise the unique environmental values of the LGA to ensure conservation and protection of these values.

The draft Wyong LEP 2012 applies to all land within the LGA including lands identified by State Environmental Planning Policy (SEPP) (Major Developments), 2005, such as the Warnervale Town Centre and Wyong Employment Zone, and certain lands within Gwandalan. The incorporation of those lands has been requested by the DP&I. In addition, where a Council-adopted Strategy exists, namely for the Wyong-Tuggerah, Toukley, and The Entrance Peninsula areas, relevant strategy recommendations have been included such as bonus height provisions for The Entrance and bonus Floor Space Ratio (FSR) provisions for Wyong Town Centre and Toukley.

The draft Wyong LEP 2012 is consistent with the *Standard Instrument – Local Environmental Plan* as well as DP&I Circulars and Practice Notes which have been published since September 2005.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

Definitions

The Dictionary of Standard Definitions provides in excess of 290 terms relevant to land use activities and the interpretation of LEPs. The Dictionary aims to standardise planning terminology across the state of NSW, and the definitions prescribed within the Standard Dictionary are mandatory. Councils cannot alter or add definitions to the Standard Instrument.

The Standard Instrument definitions differ substantially to those contained within Wyong LEP 1991 which, by comparison, only includes 119 definitions. As an example, the definition of “recreation facility” contained within Wyong LEP 1991 is now defined under the Standard Instrument as either a “recreation facility (indoor)”, “recreation facility (major)”, or “recreation facility (outdoor)”.

The Standard Instrument definitions may also be included within land use tables as either a group term, subset, or individual term. For example, the term “food and drink premises” (which falls under the group term “commercial premises” and its subset “retail premises”) includes the defined terms “restaurant or cafes”, “take away food and drink premises” and “pub”. During the preparation of draft Wyong LEP 2012, the permissibility of land uses within Wyong LEP 1991 zones, the relationship to new definitions, subsets and individual terms within the Standard Instrument have all received consideration. The difference in definitions between Wyong LEP 1991 and draft Wyong LEP 2012 has added complexity to the conversion process.

Zones

The Standard Instrument prescribes 35 zones for Councils to adopt when preparing new principal LEPs. In comparison, Wyong LEP 1991 includes 33 zones. Only those zones which are included within the Standard Instrument can be utilised – Council cannot add new zones, create sub zones, or change the name of a zone. During the conversion process, Council has selected 28 zones that are suitable for the requirements of Wyong LGA and are considered to be the most appropriate conversion zone. The conversion of zones is outlined in the report to Council on 14 December 2011. The majority of Wyong LEP 1991 zones have readily transferred to draft Wyong LEP 2012 following an assessment of definitions and permissible and prohibited land uses. Other zone conversions, such as environmental and business zones were more complex.

STRATEGIC LINKS

Wyong Shire Council Strategic/ Annual Plan

The project is consistent with Wyong Shire Council Strategic Plan 2012 – 2016 as follows:
Principal Activity 6: Environment & Land Use – Service 6.02 Land Use Planning and Policy Development – 1 year Annual Plans Actions 2012-13:

- *Finalise draft Wyong Local Environmental Plan 2012*
- *Finalise draft Wyong Development Control Plan 2012*

Finalisation of the draft Wyong LEP 2012 and draft Wyong DCP 2012, as well as the draft Settlement Strategy, will represent a significant contribution to the principal activity.

Link to Community Strategic Plan (2030)

A key objective of the Community Strategic Plan is that communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood. This goal will be achieved by the following actions (amongst others):

- Developing and implementing the Settlement Strategy. This should clearly lay out the areas for residential, business and commercial development while retaining the natural environment. It should clarify how the balance can be reached between constructed development and the natural environment.
- Implementing the Regional Strategy for the Central Coast that will guide appropriate development, maintain the lifestyle and environment and include Government intervention to provide more than 45,000 jobs in the next 25 years (Regional Strategy)

GOVERNANCE AND POLICY IMPLICATIONS

Environmental Planning and Assessment Act 1979

The EP&A Act governs the plan-making process and specifies requirements for the commencement of a new LEP. The EP&A Act was amended on 25 June 2008 and included new provisions relating to the making of environmental planning instruments, including a Standard Instrument as outlined previously in this report. Draft Wyong LEP 2012 is considered a pending 'principal' LEP as Council notified the Director-General of Planning under the provisions of Section 54 of the EP&A Act prior to 1 July 2009. In this regard the draft plan will continue to be prepared and made under the previous plan making provisions of the EP&A Act.

Consideration has also been given to existing and draft State Environmental Planning Policies, and Regional Environmental Plans taking into account their relevance to the draft Wyong LEP 2012.

Under Section 117 (s117) of the EP&A Act, the Minister for Planning & Infrastructure may issue directions to councils to require certain issues to be considered in the preparation of LEPs and other planning matters. There are a number of s117 Ministerial Directions applying to land within Wyong LGA. Relevant s117 Directions have been considered in the formulation of the draft Settlement Strategy and the draft Wyong LEP 2012. Where possible, local clauses have also been included within draft Wyong LEP 2012 to satisfy s117 Directions (e.g s117 Direction 4.1 Acid Sulphate Soils is addressed by Clause 7.1 Acid Sulphate Soils).

Section 54 – Notification

In accordance with the resolution of Council of 25 March 2009 Council notified the then Department of Planning on 9 June 2009 of the decision to commence, pursuant to the previous Section 54(1) of the EP&A Act, the preparation of draft Wyong LEP 2012 in accordance with the Standard Instrument.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

On 21 August 2009, the then Department of Planning advised Council that it may continue with the preparation of draft Wyong LEP 2012 and outlined additional government agencies that it considered Council should consult with at Section 62 stage. The Department also advised that it supported Council's strategic planning work and agreed that a Local Environmental Study was not required provided Council's Settlement Strategy delivered cohesive land use planning directions which are clearly reflected in draft Wyong LEP 2012.

Section 62 – Public Authority Consultation

Section 62 of the EP&A Act (as amended) requires Councils, during the course of preparation of a draft plan, to consult with public authorities or agencies that Council believes will or may be affected by the draft Wyong LEP 2012 and/or draft Settlement Strategy. Where a draft LEP applies to land adjoining a common LGA boundary, Section 62 requires consultation with those adjoining councils.

In regard to the statutory requirements of the EP&A Act and Regulations, Council provided a copy of the draft Wyong LEP 2012, and draft Settlement Strategy to public authorities, agencies and adjoining Councils on 5 December 2011, including those additional government agencies as requested by the then Department of Planning. As a result, the following key amendments to the draft Wyong LEP 2012 and draft Settlement Strategy were made:

- Clause 7.8 Key Sites amended to include mine subsidence as matter for consideration for relevant sites.
- Rural Industries made permissible with consent in IN1 General Industrial zone.
- Objective 5 of RU1 Primary Production zone amended to ensure agricultural activities are not adversely affected by non-agricultural activities.
- Clause 1.2 Aims of Plan (1.2(2)(b)) amended as follows: "to encourage a range of housing, employment, recreation, human services and appropriately located tourism related development in Wyong Shire to meet the existing and future needs of residents and visitors".
- Clause 1.2 Aims of Plan (1.2(2)(f)) amended to include reference to indigenous culture: "to conserve, protect and enhance the environmental and cultural heritage (both indigenous and non-indigenous) values of Wyong Shire".
- Clause 1.2 Aims of Plan (1.2(2)(k)) added to include the following reference: "to facilitate development that maximises public transport patronage and encourages walking and cycling."
- Clause 1.9A Suspension of covenants, agreements and instruments (1.9A(2)(c)) amended to add after the words "and/or Fisheries Management Act 1994".
- RU3 Forestry zone amended to include additional uses considered appropriate:
 - camping grounds
 - kiosks
 - information and education facilities
 - research stations
 - environmental facilities
 - recreation areas
 - recreation facility (outdoor)
 - environmental protection works
 - flood mitigation works.
- Amend proposed RE1 Public Recreation, W2 Recreational Waterways, E2 Environmental Conservation and E3 Environmental Management zoned land to SP2 Infrastructure zone only where existing infrastructure is located on Delta Electricity land.
- Heritage items on the Heritage maps amended to be listed with prefix 'I' for heritage items e.g. I36, and 'C' for conservation areas e.g. C2.
- Land zoning map amended to include Precinct 1 of North Wyong Shire Structure Plan within the RU6 Transition zone.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

- Land zoning map amended to incorporate the Clearwater Estate, Tacoma South within the E1 National Parks and Nature Reserves Zone, as the lots within this estate were transferred to the Minister for National Parks and Wildlife on 12 November 2010.
- Land zoning map amended to more accurately identify the National Park/State Forest boundary and these areas zoned to E1 National Parks and Nature Reserves Zone and RU3 Forestry zone accordingly.
- Amendment to Land Reservation Acquisition map and Land Zoning map in the Pollock Avenue area, to reflect the intention to acquire this land for the purpose of regional open space.
- Numerous additions to the Land Reservation Acquisition mapping requested by the Roads and Maritime Service (RMS). Subsequent Land Zoning map changes also required.
- Action added to Settlement Strategy, requiring investigation into potential for a Sensitive Waterways clause as well as process required to develop appropriate maps to apply to this clause.
- Settlement Strategy amended to provide more information on how population targets will be met.
- Justification for the provision of additional rural residential opportunities added to Settlement Strategy.
- Planning for residential centres section of Settlement Strategy amended to be consistent with the Central Coast Regional Strategy (CCRS) centres hierarchy.
- Settlement Strategy amended to include a clearer discussion on how Council has dealt with land on the urban fringe as required by the CCRS.

Section 64 and Section 65 Certificate

Section 64 of the EP&A Act requires councils to, when seeking certification of draft LEPs, forward a statement to the Director-General of the DP&I containing the names of public authorities and agencies that it has consulted with pursuant to Section 62. To fulfil these obligations a synopsis of Section 62 responses complete with issues, discussion, recommendations and actions was forwarded to the DP&I on 26 October 2012 as supporting documentation for draft Wyong LEP 2012.

For a certificate to be issued under Section 65 of the EP&A Act, enabling exhibition of a draft LEP, the Director-General must also be satisfied that the draft Wyong LEP 2012 has been prepared in accordance with the Standard Instrument.

Council submitted all relevant documentation to DP&I on 26 October 2012 and formally requested that DP&I issue a Section 65 certificate. A conditional Section 65 certificate was issued to Council on 28 November 2012 and was publicly exhibited with the draft Wyong LEP 2012. The certificate was conditional upon the following key changes to the maps accompanying draft Wyong LEP 2012:-

- (a) *Change zoning of the proposed rural-residential area north of Sandra Street, Jilliby from R5 Large Lot Residential to a zone that is equivalent to its current zoning under Wyong LEP 1991.*
- (b) *Change zoning of the proposed new RU6 Transition sites that are outside of the North Wyong Shire Structure Plan area to a zone that is equivalent to its current zoning under Wyong LEP 1991.*
- (c) *Change zoning of the proposed Warnervale Town Centre to align with the adopted State DCP for this site.*

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

- (d) *Identify a height limit for all mapped key sites on the Height of Building maps and a maximum height limit that can be achieved for each site through application of Clause 7.8 on the Key Sites maps.*

COMMUNITY CONSULTATION

Section 66 – Public Exhibition

The draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012 were exhibited from 9 January 2013 – 20 February 2013. A community engagement strategy was developed to publicise the exhibition of these documents, and facilitate community discussion and feedback.

Community engagement initiatives

The following community engagement initiatives were utilised during public exhibition:-

- A press conference was held on 14 January 2013, to launch the exhibition period and encourage increased media interest and coverage of the public exhibition of these plans.
- Weekly advertising in local newspapers and on social networking sites throughout the exhibition period.
- Information relating to the public exhibition period was provided in the rates newsletter on 22 January 2013.
- Advertising on local radio throughout the exhibition period.
- A dedicated exhibition webpage providing access to all documentation relating to the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012, including maps, written instrument, background reports and relevant statutory documents.
- An innovative online and interactive mapping facility provided the community with easy to obtain information about which maps apply to a particular site. A total of 1,236 individual online mapping website hits were received during the public exhibition period.
- Information stations containing copies of the public exhibition package were set up at all Council libraries and Council's Civic Centre. Material that was available for viewing included:
 - Draft Wyong LEP 2012 (Instrument)
 - Section 65 Certificate
 - Plain English LEP
 - Land Use Matrix
 - Draft Wyong LEP 2012 mapping
 - Section 64 report
 - SEPPs, REPs and Section 117 Directions – Statement of Justification
 - Intent of Additional Local Provisions
 - Environmental Management Framework
 - Non-standard zone conversions
 - Council-owned land zone review
 - Anomalies and minor amendments
 - Section 62 submissions
 - Land reclassification discussion paper

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

- Settlement Strategy
- Draft Wyong DCP 2012
- Relevant State and Regional planning policies and strategies.
- These documents were supported by 26 fact sheets explaining various topics relevant to the draft documents.
- Planning staff were available to discuss the plans at a set time every week throughout the exhibition period, at the following locations:

Where	When
Lake Haven Library – Lake Haven Shopping Centre	Tuesdays between 2pm-4pm
Tuggerah Library – Westfield Shopping Centre, Tuggerah	Thursdays between 2pm-4pm
Council’s Civic Centre – Hely Street, Wyong	Wednesdays between 1pm-4pm

- Dates and times were advertised in local newspapers and on Council’s website.
- As part of this initiative, a total of 70 members of the public were provided with an in-depth explanation of the draft documents and how it relates to specific issues of interest or concern.
- Discs containing all exhibition material were made available to all interested parties. Approximately 450 discs were distributed throughout the exhibition period.
- Media releases were prepared for the following focus areas throughout the exhibition period:
 - Public exhibition
 - Key changes
 - Land reclassification
 - Economic development
 - Land identified for future airport
- Public Information Sessions on the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012 were held as follows:

Where	When	Attendees
Council’s Civic Centre – Hely Street, Wyong	7 February 2013	241
Halekulani Hall, Budgewoi	12 February 2013	173

- Dates and times were advertised in local newspapers and on Council’s website.
- Public Information Sessions specific to the land reclassification component of draft Wyong LEP 2012 were held as follows:

Where	When	Attendees
Council’s Civic Centre – Hely Street, Wyong	29 January 2013	19
Lakelands Community Centre, Kanwal	31 January 2013	22
Tuggerah Lakes Community Centre, Bateau Bay	5 February 2013	11
Blue Haven Community Centre, Blue Haven	6 February 2013	6

- Dates and times were advertised in local newspapers and on Council’s website.
- Every property owner in the LGA was advised of the public exhibition as part of Council’s rates notice newsletter on 22 January 2013, and November 2012
- In addition, the owners of properties subject to specific change, such as the landowners within the Type 3 Airport strategic area, and landowners adjacent to key sites were notified of that change in addition to the above general information.

LEP CONSULTATION PANEL MEETING

In addition to the public hearing, an LEP Consultation Panel was convened for a one-off meeting on 25 March 2013 to enable members of the public that made a submission to Council during the exhibition period, to present their issues to Council about the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012. The LEP Consultation Panel comprised the following representatives:

- 1 Michael Whittaker – General Manager or his delegate
- 2 Councillor Doug Eaton – Mayor and other interested Councillors
- 3 Relevant staff members.

The LEP Consultation Panel meeting was held prior to the public hearings described above. This meeting provided Councillors and the Executive Team with an opportunity to better understand a range of submissions / issues raised by the public. A total of 42 submissions were presented and discussed at this meeting.

RESULTS OF THE PUBLIC EXHIBITION PERIOD

Number of submissions received

Council received **556** submissions in response to the public exhibition of the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012. Note that this includes submission received up to 12 April 2013, in order to provide the community with the longest possible time period in which to comment on the draft documents. This represents a total period of 4 months from the start of exhibition on 9 January 2013.

These submissions were allocated into the following categories for review purposes:

- | | |
|---|---------------------------------|
| - Land Zoning = 123 | - Flood planning = 7 |
| - Community Environment Network pro-forma = 112 | - Heritage = 4 |
| - Airport = 102 | - Council = 4 |
| - Zoning of schools = 64 (2 petitions) | - Lot amalgamation = 4 |
| - Land reclassification = 45 (6 petitions) | - Minimum lot size = 3 |
| - Land use permissibility = 31 | - Development Control Plan = 1 |
| - Government agencies = 25 | - Additional permitted uses = 1 |
| - Various = 17 | - Drinking Water Catchment = 1 |
| - Key sites = 11 | - Keeping of animals policy = 1 |

Categorisation of submissions

As a number of the submissions listed above were submitted to Council after the close of the public exhibition period, and submissions received on the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012 have been categorised as follows (Enclosures 1, 2 & 3):

1. Submissions received between 9 January 2013 – 20 February 2013 – Formal submissions given full consideration by Council.
2. Submissions received after 20 February 2013 (closure of public exhibition period) to 12 April 2013* – Informal submissions given full consideration by Council.
3. Submissions received at public hearing – Submissions to be considered by independent facilitator.

* Submissions received after 12 April 2013 have not been considered by Council.

KEY SUBMISSION ISSUES

The following sections highlight key issues raised in the submissions. The following is a brief summary of key issues raised in submissions, however detailed submission summaries and recommended actions are provided in Enclosures 1 & 2.

1. Rezoning Requests

A total of 59 submissions were received during the public exhibition period, with an additional 64 submissions received after the close of the exhibition period, in relation to requests for rezoning of land, as outlined in Enclosures 1 & 2. The majority of these rezoning requests are considered to be outside the scope of the draft Wyong LEP 2012 and any requests with merit should instead be deferred and considered as a separate planning proposal.

It is therefore recommended that those sites that are deemed to have some merit for a rezoning investigation be deferred and considered as a separate planning proposal.

2. Pro-forma from members of the Community Environment Network (CEN)

A total of 69 submissions were received from members of the CEN during the public exhibition period, with an additional 43 submissions received after the close of the exhibition period. These submissions were principally in pro-forma format, and raised the following issues:

2.1 Inadequate consultation and exhibition time.

The draft Wyong LEP 2012, Settlement Strategy and draft Wyong DCP 2012 were publicly exhibited between 9 January – 20 February 2013, with submissions accepted and considered until 12 April 2013 (a 4-month period), to provide the community with the longest possible time period in which to comment. A comprehensive community consultation strategy was prepared as part of the public exhibition of these documents, and is discussed in the Community Consultation section, above. Weekly advertising in local newspapers identified that Council staff were available to call or see in person at Council libraries at certain times or at the Civic Centre during business hours. Two general public meetings and four land reclassification public meetings were also held.

2.2 Insufficient consideration of Climate Change impacts.

Climate change factors such as sea level rise have been incorporated into the Flood Planning Area for specific areas of the LGA, where information is available. The draft Settlement Strategy has considered climate change issues in detail.

2.3 Object to proposed Type 3 Airport due to noise, pollution and inadequate assessment.

Council included the Type 3 airport proposal within draft Wyong LEP 2012 to ascertain community opinion and inform of the study area proposed for the regional airport during exhibition of the draft Wyong LEP 2012. Should the project proceed, studies will be undertaken to determine impact on amenity and environmental matters. Further discussion on the airport is provided in Section 3, below.

2.4 *Land reclassification will remove public land.*

The reclassification of land from community to operational land will not in and of itself remove public land. Council has not made any decisions in relation to the future use of these sites. Further discussion on land reclassification is provided in Section 5, below.

2.5 *Adverse impacts on Wildlife corridors from rezonings.*

The E2 Environmental Conservation zone has been applied to the most significant conservation land, wetlands, littoral rainforests, endangered ecological communities (EEC's) and land acquired by Council for conservation. The E2 zone represents the most restrictive environmental zone available, with the exception of E1 National Parks and Nature Reserves. Existing corridors have been appropriately zoned, however no new corridors have been proposed under the draft Wyong LEP 2012.

2.6 *Threatened Species not mapped or protected.*

See above comments – Council has applied the most restrictive zone to significant conservation land, wetlands, littoral rainforests, EEC's and land acquired by Council for conservation. It is therefore considered that Council has taken steps to protect threatened species in the LGA from inappropriate development.

2.7 *Unreasonable that developers may lodge rezoning requests after exhibition.*

All landowners have the ability to lodge a Planning Proposal for the investigation of land for rezoning, at any time. As for all submissions in response to the public exhibition of draft Wyong LEP 2012, rezoning requests received after 12 April 2013 were not accepted.

2.8 *Increased development in Wyong Valleys and clearing with adverse impacts on lakes and water catchment without increase in parkland, community facilities.*

The draft Wyong LEP 2012 does not propose increased development in the Wyong Valleys. The Settlement Strategy identifies a number of areas that may be suitable for rural residential development, subject to further investigation.

2.9 *Request Public Inquiry be held.*

A public hearing was held on 2 April 2013. 37 submissions were made to the hearing. For further information on the public hearing, refer to the Public Hearings section of this report, below.

3. Type 3 Airport

A total of 79 submissions were received during the public exhibition period, with an additional 23 submissions received after the close of the exhibition period, in relation to the proposed Type 3 Airport subject to Clause 7.13 – Type 3 Airport and accompanying maps. 41 submissions supported the proposed Type 3 Airport, whilst the remaining 61 submissions object to the proposal. Detailed submission summaries and comments including recommended actions are provided in Enclosures 1 & 2. However, the following provides an

overview of the key issues raised with respect to the proposed Type 3 Airport, and Council's response:

3.1 Loss of amenity – increased noise, traffic and air pollution.

Whilst amenity issues were canvassed in the “*Joint Study on Aviation Capacity in the Sydney Region*” (March 2012), detailed acoustic, traffic and environmental studies and so on will be undertaken should the project proceed. Studies addressing impact on water supply and agriculture will also be undertaken. There is no evidence at this stage that an airport would impact on the quality of life of residents or land values. Indeed such a facility could improve the quality of life of some residents by creating employment opportunities, attracting business and providing a transport node that currently does not exist.

3.2 Lack of certainty in relation to strategic area and flight paths / Type 3 airport proposal not supported by studies

High level assessment of the Type 3 airport proposal is outlined in the “*Joint Study on Aviation Capacity in the Sydney Region*” (March 2012). The location of the airport was identified in this study. Flight paths have not yet been determined as the exact location of the runway within the identified area and the exact type of aircraft has yet to be determined. As the project proceeds this information will be disseminated further to the community and interested groups.

3.3 Impact on property values

It is uncertain as to what impact an airport would have on land values within the vicinity of the proposed airport, if the airport was to proceed. It is possible that land values will increase as aligned industries develop in the vicinity of the airport.

3.4 Airport will provide many economic, tourism and other benefits

The establishment of a regional airport will create employment opportunities, attract business and investment and create wealth for our community. Wyong LGA has a population of around 150,000 people, with the Central Coast Region exceeding 300,000 in population. The region is projected to grow by more than 100,000 in 20 years and is the ninth largest in Australia yet it does not contain a Regional Airport. This is impacting on the economic and social sustainability of the region. Many smaller regions such as Ballina and Port Macquarie have regional airports.

The Federal/NSW Government ‘*Joint Study on Aviation Capacity in the Sydney Region*’ (2012) considered the possible suitability of a site in the Wyong LGA for Sydney's second airport. Whilst neither that site, nor the possibility of the LGA accommodating Sydney's second airport, are proposed in the draft Wyong LEP 2012, it did lead to Council considering the need for a Central Coast Regional Airport. It is appropriate that draft Wyong LEP 2012 contain the appropriate statutory controls required to lay the foundation for the protection of the required land area for the Airport and enable its future development and operation. The inclusion of a regional airport in draft Wyong LEP 2012 provides certainty for the community and affected landowners. Council is undertaking long term strategic planning for the benefit of its ratepayers and the broader Central Coast region.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

Council has budgeted to undertake the many required studies to establish basic plans for the exact location of the airport including its runways, flight-paths, terminal facilities and so on. A large number of environmental studies will also be needed to assess noise, environmental and other impacts on the LGA. This work will begin if the State Government supports the inclusion of the Type 3 Airport proposal in the draft Wyong LEP 2012, and will continue through all the required stages with appropriate public consultation in advance of decisions being made.

The final delineation and exact location of the Type 3 Airport may change based on feedback received from the community, engineering experts, further studies, or State and Federal Governments. However, it is likely that any revisions to the concept location would still see it proposed for the northern part of the LGA, and west of the F3 Freeway.

In summary, a regional airport would:

- Stimulate investment and improving regional employment self-sufficiency
- Provide much needed infrastructure to facilitate trade and stimulate development of employment lands
- Help reduce the reliance of the tourist service sector on both seasonal visitors and tourists driving from Sydney
- Have significant positive impacts with respect to local pride and regional identity
- Bring the Central Coast to consistency with other East Coast Regions of similar or lesser populations which currently support regional airports
- Address an identified market for regional aviation facilities.

4. Zoning of schools

A total of 38 submissions were received during the public exhibition period, with an additional 26 submissions received after the close of the exhibition period, in relation to the proposed zoning of schools under the draft Wyong LEP 2012, including 2 petitions. As part of the preparation of draft Wyong LEP 2012, schools are proposed to be zoned in accordance with the DP&I practice note *PN10_001 – Zoning for Infrastructure in LEPs*. As part of this practice note, Council was required to follow these steps when determining the zone of a school under the new LEP:

1. Public schools are automatically permitted within residential and business zones ('prescribed zones') under the *State Environmental Planning Policy (Infrastructure) 2007*. Therefore, Council is required to rezone existing special use zones to that of the adjacent land (if a prescribed zone). 'Prescribed' zone means any of the following land use zones:
 - a. RU2 Rural Landscape
 - b. RU4 Rural Small Holdings,
 - c. RU5 Village,
 - d. RU6 Transition,
 - e. R1 General Residential,
 - f. R2 Low Density Residential,
 - g. R3 Medium Density Residential,
 - h. R4 High Density Residential,
 - i. R5 Large Lot Residential,
 - j. B1 Neighbourhood Centre,
 - k. B2 Local Centre,
 - l. B3 Commercial Core,
 - m. B4 Mixed Use,
 - n. B5 Business Development,
 - o. B6 Enterprise Corridor,
 - p. B7 Business Park,
 - q. B8 Metropolitan Centre,
 - r. SP1 Special Activities,
 - s. SP2 Infrastructure,
 - t. E4 Environmental Living.

2. If no adjacent zones are prescribed zones, Council can propose to rezone the land to SP2 Infrastructure – Educational Establishment.

In the majority of cases, an appropriate adjoining zone was able to be utilised, with only a few exceptions where appropriate adjoining zones were not present and so these sites were converted to the SP2 Infrastructure zone. The zone conversion of all public school sites in the Wyong LGA, including the current zoning under Wyong LEP 1991 was reported to Council on 13 March 2013. It is recommended that no further review of proposed school zonings be undertaken as part of the draft Wyong LEP 2012.

5. Reclassification of land from community to operational

A total of 25 submissions were received during the public exhibition period, with an additional 20 submissions received after the close of the exhibition period, in relation to the proposed reclassification of 399 Council-owned sites from community to operational classification. Detailed submission summaries and comments including recommended actions are provided in Enclosures 1 & 2, and in more detail in Enclosure 4. However, the following provides an overview of key issues with respect to land reclassification:

5.1 Process issues – Volume of information and short timeframe to respond

It is acknowledged that the public exhibition period overlapped with school holidays (9 January 2013-20 February 2013), however it should be noted that Council accepted submissions up until 12 April 2013. This provided the public with over 4 months in which to comment on the draft documents. Council also held 4 community meetings to provide the community with an opportunity to discuss the land reclassification proposals with the relevant Council staff. A public hearing was also held on 2 April 2013.

No general matters were raised in public submissions that established that the process was technically unsound or that the reclassifications should not proceed. The process has met all relevant policy and statutory requirements. The exhibition was conducted in accordance with the relevant sections of the LG Act, EP&A Act (as amended) and DP&I practice note PN 09-003 Classification and Reclassification of Public Land through a Local Environmental Plan.

It is also worth noting that the *Local Government Acts Taskforce Discussion Paper – A new Local Government Act for NSW (2013)*, identifies that the current land reclassification provisions under the LG Act are ‘unnecessarily prescriptive, costly, onerous’ and ‘in need of review’. As a result, the Taskforce proposes that the LG Act be amended to end the classification regime of public land as either community or operational land and instead, require the council resolution at the time of acquiring or purchasing land to specify the proposed use or uses. It is therefore recognized by this discussion paper that the current onerous requirements of reclassifying land to operational status may soon be a thing of the past.

5.2 Loss of open space

The main public perception is that land reclassification will result in public land being sold for development. While Council has alerted the community to the fact that it is considering generating a financial benefit from its property portfolio, no specific

properties listed for reclassification have been identified for sale at this stage. Many submissions raise concern with protecting local amenity and this will be achieved simply because Council has no plans to either sell the land or change the use at this stage.

The DP&I standard for open space provision is 2.83ha/1000 persons, subject to the *Recreation and Open Space Planning Guidelines for Local Government (2010)*. Council has adopted a standard of 3.0ha/1000 persons subject to the *Local Parks Strategy (2005)*. Based on Council's standard, a population of 220,000 by 2030 will require open space of some 660ha. Under the draft Wyong LEP 2012, over 1800ha of land is proposed to be zoned RE1 Public Recreation. Aspects of community open space and community facilities needs are also met by environment protection zonings and certain commercial and/or residential zonings. It can therefore be concluded that there is no overall shortage of open space within Wyong LGA.

An argument could be made that this overall figure may mask local deficiencies in particular types of open space. However, Council's Open Space & Recreation Unit has reviewed the sites that are proposed to be both reclassified and rezoned from the current 6(a) (Open Space & Recreation Zone), and has approved these proposals. For example, advice received in relation to the site at 11W Lake Haven Drive, Gorokan reveals that the potential for development of the site for recreation is limited by potential damage and vandalism from patrons leaving the adjacent club, as well as adjacent residents opposing any form of recreation development on the reserve. In addition, sufficient open space is available in other reserves within the locality. Another example is 10 Lakeside Parade, The Entrance. This site is within close proximity to the regionally significant Picnic Point, therefore the recreation value is low. Remaining sites that are proposed to be reclassified but not proposed to be rezoned through this process, will not be subject to different land use controls once the draft Wyong LEP 2012 is gazetted (made).

It is worth noting that smaller neighbourhood or "pocket" parks tend to be a significant maintenance liability for Councils and are no longer planned for, as it is considered that the community benefits of open space are optimised if resources are directed to larger and more accessible sites. Council has a policy to "Rationalise parks and recreation areas to ensure they meet community needs" (*Annual Report 2011/2012*).

Additionally, the *Community Facilities Strategy (2012)* made a number of findings relative to the need for community facilities and community land:

- Potential oversupply of facilities in The Entrance and Southern Lakes social districts
- Concentration of facilities around centres at Wyong, Toukley, The Entrance and Lake Haven
- Gaps and limited provision in the northern and western parts of the shire.

5.3 Loss of biodiversity

A number of submissions raise the issue of potential loss of biodiversity due to land reclassification. Similar to the concern in relation to the potential loss of open space, no specific properties have been identified for sale and/or development at this stage. An Environmental Management Framework (EMF) for Wyong Shire was placed on concurrent exhibition with the reclassifications and the draft Wyong LEP 2012. The EMF provides for the overall ecological sustainability of the LGA. The classification of

Council owned land is not identified as a means to achieving sustainability objectives including protection of EECs, threatened species and native vegetation generally. Compliance with conservation objectives is based on zonings, not land classification.

In this regard there is no need to rely on community classification for the achievement of broader conservation and environment protection goals. In addition, if any development of reclassified land was proposed in the future, flora and fauna would need to be considered as part of the Development Application process.

5.4 Conclusion

In conclusion, there is more than adequate zoned land to meet community needs for open space, amenity and environment protection purposes. Accordingly there is no compelling argument that community classification must be retained to meet broader community needs. While individual sites may provide local amenity and open space there is no need for these to be kept under community classification unless they are required for broader community use. As described above, generally there is an adequate overall supply of land for community, including conservation, purposes.

5.5 Specific Sites

The position taken in assessing the proposed land reclassification was that unless there were process errors made or sufficient grounds were raised in submissions to suggest that land should be kept for community use then the Council decision to reclassify should stand. Council has reviewed the submissions received and proposes to remove the following sites from the land reclassification schedule of the draft Wyong LEP 2012:

- 32 Christopher Crescent, Lake Haven
- 83W Gorokan Drive, Lake Haven
- 2W Benelong Street, The Entrance
- 60W Britannia Drive, Watanobbi
- 151W Wyong Road, Berkeley Vale.

2. Land Use Permissibility – Shop top housing

18 submissions were received objecting to the restriction on shop top housing to 25% of Gross Floor Area in the B5 Business Development, B6 Enterprise Corridor and B7 Business Park zones, subject to Clause 7.13 – Shop top housing in B5 Business Development, B6 Enterprise Corridor, and B7 Business Park zone. These submissions claim that this restriction will have significant development implications. Council has considered these submissions, and agrees that the 25% restriction may present some challenges. However, a restriction should be retained to limit the scale of residential development in these commercial zones, which mainly occur at Tuggerah, Long Jetty and Lake Haven. It is therefore recommended that an amendment to the restriction on shop-top housing be implemented, to restrict shop-top housing to 50% of the total GFA, rather than 25%. It is considered that this is a more workable solution.

3. Remaining submissions

Remaining submissions addressed an assortment of issues, summarised and responded to as part of Enclosures 1 & 2.

PUBLIC HEARINGS

Public Hearings were held on 2 April 2013, conducted by an independent chairperson, as required by Section 29 and 47G(2) of the *Local Government Act 1993* (LG Act) and Section 68 of the EP&A Act (as amended). 37 presentations were made to the Public Hearings. The findings of the public hearing are outlined in Enclosure 3. The Public Hearings were advertised in the Central Coast Express Advocate on three separate occasions, and members of the public that made a submission to Council during the exhibition period were also notified in writing of this hearing. The Public Hearing was held in relation to the draft Wyong LEP 2012 and Settlement Strategy, in two sessions:

1. Reclassification of Land from Community to Operational

Council is required to undertake a public hearing as part of the land reclassification process, as outlined in the DP&I Practice Note "*Classification and reclassification of public land through a local environmental plan*" and Section 29 of the LG Act.

2. Draft Wyong LEP 2012 and Draft Settlement Strategy

69 pro-forma submissions were received from members of the Community Environment Network (CEN) during the public exhibition period, with an additional 43 pro-forma submissions received after the close of the exhibition period. As part of this pro-forma, a public hearing was requested into the issues raised in the submission, listed as follows:

- a. Inadequate time for consideration by public
- b. Insufficient consideration of Climate Change Impacts
- c. Objection to proposed Type 3 Airport
- d. Land reclassification will remove public land
- e. Adverse impacts on Wildlife corridors from rezonings
- f. Threatened Species not mapped or protected
- g. Unreasonable that developers can request a rezoning after the public exhibition period
- h. Significantly increased development in the Wyong Valleys.

Section 68 of the EP&A Act (as amended) requires Council to determine whether the reasons listed in a submission requesting a public hearing are of such significance that they should be the subject of a public hearing before Council decides whether any amendments should be made to the draft Wyong LEP 2012 as a result.

The Project Control Group for the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012 determined that some of the issues listed in the pro-forma submission were significant and that a public hearing should be held. This was endorsed by Council on 13 March 2013.

Subject to Clause 47G(2) of the *Local Government Act 1993* (LG Act), the person presiding at a public hearing must not be:

- a. a councillor or employee of the council holding the public hearing, or
- b. a person who has been a councillor or employee of that council at any time during the 5 years before the date of his or her appointment.

The facilitator selected to chair the public hearing was independent of Council and had no personal or professional interest in the outcome of the public hearing. Council required that

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

the independent chair for the Public Hearing has had no involvement with Council or projects within the Wyong LGA within the last 5 years.

PUBLIC HEARING REPORT

A report of the public hearing by the independent chair has been provided to Council. The report is a public document and was made available to the public within 4 days of receipt, as required by the LG Act. A copy of the report is included as Enclosure 3.

Subject to Clause 734(4) of the LG Act, Council must consider this report before making any decision with respect to the matter to which it relates. A summary of report findings is outlined below. Note that these recommendations are provided for Council’s consideration. Council can choose whether to adopt or reject any recommendations.

1. Land reclassification

1.1 General Recommendation

The Public Hearing report makes the following general recommendation in relation to Land Reclassification issues raised at the Public Hearing (Council response noted in column on the right):

Independent Report Recommendation	Council Response
<p>The report identifies ‘<i>that there are prospects at Wyong for the better use of existing public lands to help address current community services deficiencies</i>’. However, the writer does identify that ‘<i>there is a need for considerably more analysis and the adoption of a more strategic approach</i>’. The writer recommends adopting a strategic approach similar to the land reclassification policy adopted by Newcastle City Council.</p> <p>In the meantime, the writer recommends that ‘<i>this round of the LEP process be limited to “routine” infrastructure sites (ie sites which could not be reasonably perceived as requiring public access for benefit, and not containing EEC)</i>’. The writer also recommends that Council staff from various fields and representative members of the community be involved in determining which sites should be proposed for reclassification.</p>	<p>Attachment 14 – Land Reclassification Discussion Paper as exhibited with the draft documents is satisfactory supporting information to support the reclassification of these sites. Council staff from various fields have already been involved in preparation of the final list of sites proposed to be reclassified.</p> <p>Issues relating to specific sites are discussed below.</p>

1.2 Specific Recommendations

The Public Hearing report makes the following recommendations in relation to specific Land Reclassification issues raised at the Public Hearing (Council response noted in column on the right):

Sites Raised in Submissions	Independent Report Recommendation	Council Response
<p>32 and 43W Christopher Cr; 6 Kylie Cl, Lake Haven <i>“Specific Reason for Reclassification”:</i> <i>Unused vacant land.</i></p>	<p>Reclassification not supported. Insufficient background analysis of the qualities offered to the community by these lands, or strategic analysis of open space</p>	<p>32 Christopher Crescent: Agree – Land forms part of a corridor utilised by the community, and for fauna habitat. The qualities offered to</p>

Sites Raised in Submissions	Independent Report Recommendation	Council Response
<p><i>Reclassification to Operational provides flexibility for the future management of the site, enhancing potential options for the long term economic viability through long term lease, potential sale or development of the site.</i></p>	<p>needs in the setting. On the face of it this land accommodates significant bushland and fauna habitat and is in active use as walking trails.</p> <p>This local community apparently has strong links to the land. There is a clear benefit, or need, for direct community involvement in management decisions for this land.</p>	<p>the community by this property were assessed from both strategic and open space purposes. The land does accommodate significant flora and fauna habitats and the community has links to the land which would warrant involvement in management decisions for this land. Land to retain community classification.</p> <p><u>43W Christopher Crescent:</u> Disagree – Whilst the property forms part of a corridor referred to in submissions for 32 Christopher Close and 83W Gorokan Dr, Lake Haven, it is currently zoned residential and is predominantly cleared of vegetation. The qualities offered to the community by this property were assessed from both strategic and open space purposes. The land does not accommodate significant flora and fauna habitats and the extent of the community links to land is minimal other than its use as access to Lake Haven Drive through 6W Kylie Close. Site to continue to be proposed for reclassification to operational land.</p> <p><u>5 Kylie Close:</u> Disagree – Whilst the property forms part of a corridor referred to in submissions for 32 Christopher Close and 83W Gorokan Dr, Lake Haven, the property is an unused vacant parcel of land which contains and facilitates an existing water main where operational classification is more suitable. The property is currently zoned residential and could be explored by Council for further development. There are no confirmed instances of endangered flora or fauna on the property. The qualities offered to the community by this property were assessed</p>

Sites Raised in Submissions	Independent Report Recommendation	Council Response
		<p>from both strategic and open space purposes. The land does not accommodate significant flora and fauna habitats and the extent of the community links to land is minimal other than its use as access to Christopher Crescent through 43W Christopher Crescent. Site to continue to be proposed for reclassification to operational land.</p> <p>For further information about loss of open space, please refer to Section 5.2 of this report.</p>
<p>83W Gorokan Dr Lake Haven <u>“Specific Reason for Reclassification”:</u> <i>Vacant land not functional for use as open space. Reclassification to Operational provides flexibility for the future management of the site, enhancing potential options for the long term economic viability through long term lease, potential sale or development of the site.</i></p>	<p><u>Reclassification not supported.</u> Insufficient background analysis of the qualities offered to the community by these lands, or strategic analysis of open space needs in the setting. On the face of it this land accommodates significant bushland and fauna habitat and is in active use as walking trails. This local community apparently has strong links to the land.</p>	<p>Agree – Land forms part of a corridor which is utilised by the community. The qualities offered to the community by this property were assessed from both strategic and open space purposes. The land does accommodate significant flora and fauna habitats with endangered flora and fauna was confirmed to exist on the property by Council’s Ecologist. The community has links to the land which would warrant involvement in management decisions for this land. Site should retain community classification.</p>
<p>11W Lake Haven Dr, Gorokan (Alfred Greentree Reserve) <u>“Specific Reason for Reclassification”:</u> <i>Contains and facilitates sewer infrastructure and underutilised open space. Planning proposal to rezone the land to R2 Low Density Residential has been submitted for consideration. Reclassification to Operational provides flexibility for the future management of the site, enhancing potential options for the long term economic viability through long term</i></p>	<p><u>Reclassification not supported.</u> Insufficient background analysis of the qualities offered to the community by these lands, or strategic analysis of open space needs in the setting. On the face of it this site presents as a medium sized park in the suburban landscape of some amenity value. Any proposal to gain capital value from this site, or a portion of it, for community benefit would need to be better established and require further public engagement. This local community apparently has strong links to the land.</p>	<p>Disagree – The site provides limited amenity value with Council’s Open Space & Recreation unit advising that the site is surplus to Council’s open space and recreation needs. There are other large open space parcels of approximately 8000sqm located 300m south of the property at 70 Arlington Street, Gorokan. The land no longer serves the purpose for which it was acquired. The extent of the community links to land is minimal other than its use as access with a pathway from Skyline Street traversing the site.</p>

Sites Raised in Submissions	Independent Report Recommendation	Council Response
<p><i>lease, potential sale or development of the site.</i></p>		<p>The site provides a significant opportunity for Council to stimulate development on a large site opposite the Wyong Leagues club which currently has limited use for open space activities and where adjacent residents oppose any form of recreational development on the reserve.</p> <p>Site to continue to be proposed for reclassification to operational land.</p> <p>For further information about loss of open space, please refer to Section 5.2 of this report.</p>
<p>106 Phyllis Avenue, Kanwal “Specific Reason for Reclassification”: <i>Not a functional area for open space. Planning proposal to rezone the land to R1 General Residential has been submitted for consideration.</i> <i>Reclassification to Operational provides flexibility for the future management of the site, enhancing potential options for the long term economic viability through long term lease, potential sale or development of the site.</i></p>	<p><u>Reclassification not supported.</u> Insufficient background analysis of the qualities offered to the community by these lands, or strategic analysis of open space needs in the setting. On the face of it this site presents as a medium sized park in the suburban landscape of some amenity value. Any proposal to gain capital value from this site, or a portion of it, for community benefit would need to be better established and require further public engagement. This local community apparently has strong links to the land.</p>	<p>Disagree – Land adjoins Kanwal shops and is zoned 2(a) (Low Density Residential Zone) and is proposed to be rezoned to R1 General Residential, in accordance with the adjoining property. The site provides limited amenity value with Council’s Open Space & Recreation unit advising that the site is surplus to Council’s open space and recreation needs. The land is largely clear of vegetation, and Council has established a formal small park on adjoining land behind the shops. The extent of community links to land is minimal other than its use as access with pathways traversing the site. The financial gain by redevelopment and costs saved from maintenance of the site would enable funding to be distributed to other community needs or facilities. Site to continue to be proposed for reclassification to operational land. For further information about loss of open space, please refer to Section 5.2 of this report.</p>

Sites Raised in Submissions	Independent Report Recommendation	Council Response
<p>Long Jetty, 36-38 Kitchener Road – Long Jetty Pre School <u>“Specific Reason for Reclassification”:</u> <i>Contains and facilities (sic) existing Council facilities. Reclassification to Operational provides flexibility for the future management of the site, enhancing potential options for the long term economic viability through long term lease, potential sale or development of the site.</i></p>	<p><u>Reclassification not fully supported.</u> Site is now zoned 6(a) Open Space and Recreation and is proposed to remain zoned RE1 Public Recreation. RE1 zone confirms a continuing intent to use the land for public purposes. On the face of it, operational classification extends the flexibility for returns on the existing building via long term lease arrangements. However, the hearing had few details on the site context or the views of Council specialists in community facilities planning and management. Before support it would be appropriate to undertake a strategic analysis of community facilities needs in the locality, and/or obtain views on conditions/requirements for change in classification from Council specialists.</p>	<p>Disagree – The property was assessed by various Council specialists prior to recommending proposal to reclassify which included a strategic analysis of community facilities. All relevant information was provided to the community as part of the public exhibition. One submission was concerned about charging community groups commercial rates for leases which is not related to classification. The submission was also concerned about clearing, and loss of community access to walking tracks, parks and facilities in relation to this and a number of other sites. No loss of public access will occur in this location. It is unlikely that a change to the use of the property will occur as a result of reclassification. Site to continue to be proposed for reclassification to operational land.</p>
<p>Berkeley Sports Complex Berkeley Road, Glenning Valley <u>“Specific Reason for Reclassification”:</u> <i>(Contains and facilitates sewer main, playing fields, clubhouse) and carpark where access is required at all times. Reclassification to Operational provides flexibility for the future management of the site, enhancing potential options for the long term economic viability through long term lease, potential sale or development of the site.</i></p>	<p><u>Reclassification not supported.</u> These lands were acquired in part for playing fields and associated carparks. No explanation is provided on the proposed safeguards to ensure retention of these important areas of community use. Any proposal to gain capital value from this site, or a portion of it, for community benefit would need to be better established and require further public engagement.</p>	<p>Disagree – The property was identified as part of the submission made by Community Environment Network (CEN). Whilst the acquisition of the land was for playing fields and associated car parks, reclassification will not change its current use. The property does contain existing sewer main where operational classification more suitable. The submission did not provide site specific reasons against reclassification however highlighted the loss of endangered ecological communities (EECs), community access to walking tracks, parks, facilities, potential sale of the properties as reasons for opposing reclassification. The decision to reclassify is for the purposes of</p>

Sites Raised in Submissions	Independent Report Recommendation	Council Response
		improving sewer main infrastructure servicing by Council's Infrastructure Management team. Site to continue to be proposed for reclassification to operational land.
<p>Chittaway Point Hall 72-76 Geoffrey Road <u>"Specific Reason for Reclassification"</u>: <i>Lot 31 contains and facilitates existing sewer main and drainage, Lot 32 contains and facilitates existing drainage and Lot 33 contains and facilitates existing drainage and Hall where access is required at all times. Reclassification to Operational provides flexibility for the future management of the site, enhancing potential options for the long term economic viability through long term lease, potential sale or development of the site.</i></p>	<p><u>Reclassification not supported.</u> Insufficient background analysis of the qualities offered to the community by these lands, or strategic analysis of open space/community needs in the setting. On the face of it, this site presents as a local park and community hall, with strong links, or potential for strong links to the local community. Any proposal to gain capital value from this site, or a portion of it, for community benefit would need to be better established and require further public engagement.</p>	<p>Disagree – The property was identified as part of the submission made by Community Environment Network (CEN). The submission did not provide site specific reasons against reclassification however highlighted the loss of endangered ecological communities (EECs), community access to walking tracks, parks, facilities, potential sale of the properties as reasons for opposing reclassification. The property was assessed by various Council specialists prior to recommending proposal to reclassify which included a strategic analysis of community facilities. All relevant information was provided to the community as part of the public exhibition. Whilst the site may present as a local park, it contains existing drainage and sewer infrastructure where operational classification is more suitable. For further information about loss of open space, please refer to Section 5.2 of this report. Site to continue to be proposed for reclassification to operational land.</p>
<p>Chittaway Bay Hall and Oval <u>"Specific Reason for Reclassification"</u>: <i>Contains and facilitates drainage and sewer mains, clubhouse and carpark. Reclassification to Operational provides flexibility for the future</i></p>	<p><u>Reclassification not supported.</u> Insufficient background analysis of the qualities offered to the community by these lands, or strategic analysis of open space/community needs in the setting. On the face of it, this site presents as a local park and community hall, with strong</p>	<p>Disagree – The property was identified as part of the submission made by Community Environment Network (CEN). The submission did not provide site specific reasons against reclassification however highlighted the loss of endangered ecological</p>

Sites Raised in Submissions	Independent Report Recommendation	Council Response
<p><i>management of the site, enhancing potential options for the long term economic viability through long term lease, potential sale or development of the site.</i></p>	<p>links, or potential for strong links to the local community. Any proposal to gain capital value from this site, or a portion of it, for community benefit would need to be better established and require further public engagement.</p>	<p>communities (EECs), community access to walking tracks, parks, facilities, potential sale of the properties as reasons for opposing reclassification. The property was assessed by various Council specialists prior to recommending proposal to reclassify which included a strategic analysis of community facilities. All relevant information was provided to the community as part of the public exhibition.</p> <p>Whilst the site may present as a local park, it contains existing drainage and sewer infrastructure where operational classification is more suitable.</p> <p>For further information about loss of open space, please refer to Section 5.2 of this report.</p> <p>Site to continue to be proposed for reclassification to operational land.</p>
<p>Berkeley Vale, Tom Stone Park & Childcare <u>"Specific Reason for Reclassification":</u> <i>Contains and facilitates existing water and sewage lines and Council's Childcare centre. Reclassification to Operational provides flexibility for the future management of the site, enhancing potential options for the long term economic viability through long term lease, potential sale or development of the site.</i></p>	<p><u>Reclassification not supported.</u> This is one of the reclassification sites which have extensive bushland. A submission which went to considerable efforts to analyse this question indicated that there was evidence to suggest this site included EEC. The identification of EEC does not mean the site is unable to be reclassified, but does mean this question should be considered in the decision for reclassification.</p>	<p>Disagree – The property was identified as part of the submission made by Community Environment Network (CEN). The submission did not provide site specific reasons against reclassification however highlighted the loss of endangered ecological communities (EECs), community access to walking tracks, parks, facilities, potential sale of the properties as reasons for opposing reclassification.</p> <p>The property was assessed by various Council specialists prior to recommending proposal to reclassify which included a strategic analysis of community facilities. All relevant information was provided to the community as part of the public exhibition. Environmental zoned land is</p>

Sites Raised in Submissions	Independent Report Recommendation	Council Response
		valuable for Council to explore potential bio banking and offsetting opportunities not available under community classification. Site to continue to be proposed for reclassification to operational land.
<p>31W Glenn Road Ourimbah The key purpose of this submission appears to be to draw attention to and stop a proposal for a very tall (40m) telecommunications tower close to residences.</p>	<p>At present this land accommodates two reservoirs. It appears from the environmental report undertaken on behalf of Council and accompanying the submission that there is no threatened species within the subject land, or environmental values on the site to suggest community classification. Setting aside any future proposal, land reclassification to operational appears appropriate in this instance.</p> <p>Community land is commonly used for telecommunications infrastructure. Councils do appear to commonly enter into shorter lease arrangements with telcom providers for use of community land for this purpose and the capacity for lease renewal is recognised. It appears that unlike some community land there is no requirements for plans of management to authorise leases for public utilities on community land (Department of Local Government 2000, p25).</p>	<p>Disagree – This site is already classified as operational land and is not subject to any proposed changes under draft Wyong LEP 2012.</p>
<p>Recommended Action on Other Sites: One of the submissions demonstrated an extensive amount of background research aimed at identifying which of the sites proposed for reclassification from operational to community land had been identified as accommodating EEC. This submission claimed that such areas should be retained as community land and <i>categorised as natural areas</i> under LG Act</p>	<p>In this writer's view it is not out of the question that some parcels of land containing EEC may be suitable for at least part reclassification. However, it is important that the question of the existence of EEC or other important natural or cultural assets be considered in the analysis of the land reclassification question. The baseline position would be to retain each of the sites identified in this submission to community classification. It would also be appropriate to extend this review</p>	<p>Part reclassification is not possible without prior subdivision.</p> <p>The existence of EEC or other important natural or cultural assets is not of itself material enough to prevent the proposed reclassifications from proceeding.</p> <p>All properties were assessed by various Council specialists prior to recommending proposal to reclassify which included a strategic analysis of community facilities. All relevant information was</p>

Sites Raised in Submissions	Independent Report Recommendation	Council Response
requirements. This work found that over 100ha of land containing EEC was proposed for reclassification. The following sites were indicated as containing EEC and it was emphasised that this was not a full review of the 399 parcels proposed for reclassification.	of EEC over each of the proposed sites for reclassification. For a properly-based decision on this it will be important that Council's deliberations on the identification of what are termed above as "routine reclassifications" be a rounded one. In turn the recommendation from this hearing is that a multi-disciplined staff panel (comprising property, planning, environmental, community, infrastructure interests) review the reclassification proposals to identify routine matters.	provided to the community as part of the public exhibition.
- 7W Sir Joseph Banks Dr, Bateau Bay	See above.	Disagree – The reclassification of the property will allow Council to explore development opportunities with Cresthaven Shopping Centre. The reclassification will not affect possible EECs on the property or the use of the oval for recreational purposes. Options to subdivide the property should include separating a portion of the property adjoining the shopping centre and the oval and the remaining larger parcel could be reclassified back to community land via a Council resolution. Site to continue to be proposed for reclassification to operational land.
- 19-21 & 29 Keren Ave. Berkeley Vale	See above.	See Berkeley Vale, Tom Stone Park & Childcare, above.
- 38W Wombat St & 19W Marlborough Pl, Berkeley Vale	See above.	Disagree – The property contains and facilitates existing drainage line where operational classification is more suitable. Site to continue to be proposed for reclassification to operational land.
- 75W Panorama Ave, Charmhaven	See above.	Disagree – The property contains and facilitates existing drainage line where operational classification is more suitable. Site to continue to be proposed for reclassification to operational

Sites Raised in Submissions	Independent Report Recommendation	Council Response
– 60W Burns Rd, Ourimbah	See above.	land. Disagree – The property contains and facilitates existing drainage and sewerage infrastructure where operational classification is more suitable. Site to continue to be proposed for reclassification to operational land.
– 1W Britannia Dr, Watanobbi	See above.	Disagree - The property serves as a road buffer for Pacific Hwy and contains existing drainage infrastructure where operational classification is more suitable. Site to continue to be proposed for reclassification to operational land.
– 40W Coachwood Dr, Ourimbah	See above.	Disagree - The property contains and facilitates existing drainage infrastructure where operational classification is more suitable. Site to continue to be proposed for reclassification to operational land.
– 1 Teralba St and 1W Pacific Hwy Ourimbah	See above.	Disagree - The properties contains and facilitates existing drainage infrastructure where operational classification is more suitable. Sites to continue to be proposed for reclassification to operational land.
– 23 Shirley St Ourimbah	See above.	Disagree - The property is vacant land not suitable as reserve as it contains and facilitates existing drainage infrastructure where operational classification is more suitable. Site to continue to be proposed for reclassification to operational land.
– 10 Summerland Rd Summerland Point	See above.	Disagree - The property contains and facilitates existing drainage infrastructure where operational classification is more suitable. Site to continue to be proposed for reclassification to operational land.
– 2W Bundeena Rd	See above.	Disagree - The property

Sites Raised in Submissions	Independent Report Recommendation	Council Response
Glenning Valley		contains drainage detention basin land where operational classification is more suitable and allows Council to explore potential bio banking and offsetting opportunities not available under community classification. Site to continue to be proposed for reclassification to operational land.
<ul style="list-style-type: none"> - Wilfred Barrett Dr, Norah Head - 1W Wolseley Dr, Tacoma - 8 Titania Ave, Tuggerah - 375 Pacific Hwy, Wyong - 231 Hue Hue Rd, Jilliby - 30W & 32 Sandra St, Jilliby - 2W Bundeena Rd, Glenning Valley 	See above.	Disagree – Environmental zoned land is valuable for Council for exploring bio banking and offsetting opportunities not available under community classification. Site to continue to be proposed for reclassification to operational land.
<p>General: Concerned with land reclassification, in particular potential effects on Endangered Ecological Communities (EEC). Does not support Council's criteria for reclassification and believes that more thoughtful criteria would have ruled out many of the parcels. Sale of land for revenue raising are single dimensional and not supported. Study for this submission by specialist analysts uncovered about 120ha of land which had EEC within it, and noted much of the proposed operational land also played a "filtering" role for runoff into the lake systems. All EEC land should remain as community land.</p>	Some parcels of land containing EEC may be suitable for reclassification. However, it is important that the existence of EEC be considered in the land reclassification. The baseline position would be to retain each of the sites identified in this submission to community classification. It would also be appropriate to extend this review of EEC over each of the proposed sites for reclassification. For a properly-based decision on this it will be important that Council's deliberations on the identification of what are termed above as "routine reclassifications" be a rounded one. In turn the recommendation from this hearing is that a multidisciplinary staff panel (comprising property, planning, environmental, community, infrastructure interests) review the reclassification proposals to identify routine matters.	Disagree – The existence of EEC is not of itself material enough to prevent the proposed reclassifications from proceeding. All properties were assessed by various Council specialists prior to recommending proposal to reclassify which included a strategic analysis of community facilities. All relevant information was provided to the community as part of the public exhibition.

2. Draft Wyong LEP 2012 and Draft Settlement Strategy

2.1 Type 3 Airport

The Public Hearing report makes the following recommendations in relation to Type 3 Airport issues raised at the Public Hearing (Council response noted in column on the right):

Issues Raised in Submissions	Independent Report Recommendation	Council Response
<p>The report identifies that there were strong submissions both in support and against Type 3 Airport in the hearing, as follows:</p> <ul style="list-style-type: none"> ▪ Submissions in support saw the airport as having potential to revive the local economy, able to assist tourism, build the regions identity, provide a base to encourage investment and create local employment opportunities. ▪ Submissions against included concerns about uncertainty and lack of community information. It was suggested that this site was a variation on a site investigated jointly by State and Federal Government. It was suggested that the investigated site was the worst of some 17 sites investigated, for noise impacts. It was also suggested that a recent study for Council also found "unsuitable ratings for noise impacts due to its proximity to urban areas", including Warnervale township and a school located within 1.5km of the southern boundary. It was also suggested that the Type 3 Airport would have very serious and unjust effects on local landholders especially property values. 	<p>The Public Hearing report makes the following recommendation:</p> <ul style="list-style-type: none"> ▪ <i>An action to designate a Type 3 airport site in an LEP, with a runway length up to 2,600m, is a major land use decision.</i> <ul style="list-style-type: none"> – ...It would be reasonable to expect a proposal for such an airport to be subject to considerable investigation before the step was taken to reference it in a statutory planning instrument, due among other things to the effects of such a step on affected properties. ▪ <i>Designating a prospective major airport site in an LEP would, reasonably, have significant implications and raise uncertainties for existing property owners.</i> ▪ <i>Given the evidence of community concerns regarding airport noise, it seems to me likely that a formal statutory planning instrument's reference as suggested, would very likely</i> 	<p>Disagree</p> <ul style="list-style-type: none"> ▪ Only 1 submission was made against the airport at the Public Hearing, from an LGA population of over 150,000 and a regional population exceeding 300,000. Statistically, this is considered to be minor in the broader scheme. 3 submissions were made in support of the airport at the Public Hearing, and an independent survey of 400 residents indicated 84% support for the airport. ▪ The proposed regional airport concept is not a major airport it is a regional airport that will operate in similar capacity to Ballina Airport. Council included the Type 3 airport proposal within draft Wyong LEP 2012 to ascertain community opinion, and inform them of the study area proposed for the regional airport during exhibition of the draft Wyong LEP 2012. The inclusion of a regional airport in a Draft LEP provides certainty for the community and affected landowners. ▪ The issue of noise associated with the airport has been raised in some submissions. At this stage detailed studies have not been undertaken however the location adjacent to the

Issues Raised in Submissions	Independent Report Recommendation	Council Response
	<p><i>mean a significant adverse effect on land values for nearby property owners.</i></p> <ul style="list-style-type: none"> ▪ <i>The question of adverse effects on land values in this instance (ie comprising what might be termed passive landholders) is seen to be quite different from land value concerns associated with land speculation (ie about whether and to what extent there may be future increased development opportunities on land).</i> ▪ <i>On the material before the hearing, it is not seen that this proposal has at all reached a point where it would be appropriate to designate it in the draft LEP.</i> 	<p>F3 Freeway will assist with ameliorating the noise to some extent. The fact that it is a regional airport with limited flight numbers will also limit the noise created. Significant studies were undertaken by the Federal and State Governments when compiling the "Joint study on aviation in the Sydney Basin". Should the project proceed, studies will be undertaken to determine impact on amenity and environmental matters.</p> <ul style="list-style-type: none"> ▪ The issue of the impact of an airport on property values was raised in some submissions. Whilst many were concerned with falling land values as a result of the airport there is evidence in other areas that an airport can cause property values to rise. ▪ Identifying this location in draft Wyong LEP 2012 is considered appropriate, and it is recommended that Council proceed with this proposal. ▪ For further information justifying the retention of the Type 3 Airport within draft Wyong LEP 2012, please refer to Section 3.4 of this report.

2.2 General Recommendations

The Public Hearing report makes the following general draft Wyong LEP 2012 and draft Settlement Strategy recommendations in relation to issues raised at the Public Hearing (Council response noted in column on the right):

Site/Issues Raised in Submissions	Independent Report Recommendation	Council Response
<p>5 Anderson Rd, Glenning Valley: Seeks rezoning to residential land.</p>	<p>Not appropriate to include in the current LEP. The gateway process can define suitability and requirements for a zoning</p>	<p>Agreed.</p>

Site/Issues Raised in Submissions	Independent Report Recommendation	Council Response
<p>General comments:</p> <p>1. Public consultation process: Complex documentation impossible to review in timeframe. Exhibition period included school holidays.</p> <p>2. Settlement Strategy: Concerned with lower quality analytical approach to land release. Sydney Growth Centres included detailed environmental studies identifying EEC beforehand and offsetting arrangements. For Wyong new land is released without environmental details.</p> <p>3. Wyong especially at risk on climate change and need an adaptation strategy. Not adopting precautionary principle raises future fiscal and liability risks.</p> <p>4. Airport an uncertainty.</p> <p>5. Concerned about iconic sites and 100m high buildings.</p> <p>6. Reclassification: Some parcels acknowledged as small matters. No common sense behind many others. People think its about land sale. Concerned about justification for reclassification of many sites as “not functional ... as open space”, “flexibility to achieve operational objectives”. Questions whether Council has applied a rate of provision of different forms of open space.</p>	<p>change.</p> <p>These topics are addressed in the body of the Public Hearing report (Attached). However the question of the treatment of climate change in the planning documentation would need considerable further analysis than has been possible in this report.</p>	<p>Noted. No further action.</p>
<p>35 Blue Wren Lane, Wyong Creek: Land should be zoned R5 Large Lot Residential under draft Wyong LEP 2012.</p>	<p>Not appropriate to include in the current LEP. The site is proposed to be zoned RU1 Primary Production (20ha min lot size) with a smaller triangular shape at the rear zoned E3 Environmental Management (40ha). This generally corresponds with arrangements under Wyong LEP 1991 controls. The holding is not large enough to subdivide under these controls. Increasing subdivision potential for non viable agricultural land is addressed in the body of the Public Hearing report (Attached).</p>	<p>Agreed and Noted.</p>

Site/Issues Raised in Submissions	Independent Report Recommendation	Council Response
<p>General comments:</p> <ol style="list-style-type: none"> 1.Green corridors: Current policy of corridors on Council and Crown land only should be maintained. Understands Department of Planning is instructing Council on this matter. Acknowledges effect on connectivity but already plenty of instances where corridors are discontinuous. Reduces development opportunities and value of land. Corridors on private land unfair and unwarranted especially given the amount of native bushland in Wyong (65%). 2.Zone conversions – Concerned that areas zoned 7(b) (Scenic Protection Zone) will lose 35 permissible uses with parallel zoning under new LEP. 3.Release of Land in Precincts 16 and 19 – Release more land in this area now. Vacant land and rental opportunities non-existent. Should not be related to coal extraction patterns especially given local circumstances for nearby mines. Good local facilities available. 	<p>These three topics are addressed in the body of the Public Hearing report (Attached).</p>	<p>Noted. No further action.</p>
<p>General comments:</p> <ol style="list-style-type: none"> 1.Insufficient time available to peruse the major policy changes proposed. 2.The Settlement Strategy makes big claims: “Why a Settlement Strategy – Future urban growth needs to occur without significant impact on biodiversity and conservation values ...” (p3); “Aims and Objectives” –include a focus on liveable communities” (p4) but at the same time the loss of local parks is suggested with such a large number of community land reclassifications; “Living Sustainably in Wyong Shire” (p7). There is not enough alignment with these principles in the plan content. 3.Precautinary Principle is raised in the Settlement Strategy but doesn’t seem to be adopted in LEP content including the land reclassification proposals. 	<p>These topics are addressed in the body of the Public Hearing report (Attached).</p>	<p>Noted. No further action.</p>

Site/Issues Raised in Submissions	Independent Report Recommendation	Council Response
4. Corridor land should be more highly valued by the community than development land.		
<p>139 Boyce Ave, Wyong: Seeking changes to permit subdivision of the subject land for housing. A planning study in support of the proposal was also provided. This work included a specialist flood assessment. The submission emphasised the potential of the site as residential infill and that subdivision would allow for sale of the land for housing for Mr Maxwell's daughters and otherwise assist the family. The land was seen to be of the same character as other land in Boyce St. The land was well serviced including kerb and gutter and was an opportunity for increased rate revenues for Council. Flooding was the only concern and the flooding was low hazard.</p>	<p>Not appropriate to include in the current LEP. Site is close to Wyong, rail station and other facilities. Residential housing is close by and it would be expected that waste removal services readily available. Based on this the site is well suited to residential infill.</p> <p>The problem with this site is flooding and it is a considerable one. A specialist report referenced in the submission predicts that floodwater depths on site during a 100 year occurrence flood event would be between 1.1m and 1.8m. The report also indicates that flood hazard would be relatively low due to relatively low flow velocity. According to the DP&I's Guideline on Development Controls on Low Flood Risk Areas, key issues when considering development on flood prone land are: safety of people, management of the potential damage to property and infrastructure, and management of the cumulative impacts of development. Despite what might be potential public benefits via increased rates revenue, permitting development within the flood plain can have a significant effect on flood levels and thus direct adverse impact on existing property owners. This would be especially the case if large areas subject to 1.5m + of floodwater inundation are made available for development.</p> <p>Based on the limited review here, I do not see sufficient reason to suggest development rights be increased on the subject land.</p>	<p>Agreed.</p>
<p>General comments: 1. Significant policy documents with relatively short time periods for</p>	<p>This submission raises matters about the principles involved in Council's Settlement Strategy,</p>	<p>Noted. No further action.</p>

Site/Issues Raised in Submissions	Independent Report Recommendation	Council Response
<p>comment. Difficult for community members to participate. Major growth still proposed for the area but no consideration of improvements for ailing health system, schools or transport systems.</p> <p>2. Notes the debt position of Council and unhappy with elected Council's performance in response issues.</p> <p>3. Land reclassification: Indicated that the community "wants nothing to do with a massive garage sale of our community assets". For the Lake Munmorah area sees the community land as important for the ageing population as walkways to various facilities, also as bushland.</p> <p>4. Other concerns include affordable housing and response to recent government policy changes, dealing with the lake system, bushland management.</p>	<p>planning instruments and land reclassification proposals. These matters are addressed in the body of the Public Hearing report (Attached).</p>	
<p>180 Pacific Highway Ourimbah: Request area of E2 Environmental Conservation zone along a section of road frontage be amended as it is not warranted, "highly discriminatory" and would make the land unusable, as this area zoned E2 is the only part of the site suitable for building and is necessary for access.</p>	<p>Proof-test and replace E2 Environmental Conservation zone area with E3 Environmental Management zone for the small roadside section of the site if supported.</p>	<p>Agreed – The site was inspected by Council's Ecologist. Inspection revealed the area was heavily infested with lantana and did not justify the proposed E2 zone. It is recommended that the E2 zone be deleted and the whole site be zoned E3.</p>
<p>70 Manns Rd, Fountaindale (Part Lot 13 DP874595): Requests a dwelling right on part of Lot 13 (formerly Part Portion 87), particularly on the lower part of the site, and minimum subdivision lot size changes to suit. The submission notes a 1985 development consent allowing subdivision for a number of small rural residential lots of an adjoining part of the family holding. One of the conditions of the consent denied the erection of a dwelling on the subject land.</p>	<p>Not appropriate to include in the current LEP. This land comprises a steep and heavily vegetated parcel forming part of the backdrop to a rural residential precinct in Fountaindale. Wyong LEP 1991 zoning is 7(a) (Conservation Zone) and the proposed zoning is E3 Environmental Management. It appears that it was a conscious decision of Council in its approval for the subdivision of a larger holding into a number of small rural residential lots and a residue,</p>	<p>Agreed.</p>

Site/Issues Raised in Submissions	Independent Report Recommendation	Council Response
	<p>that as part of this decision this residue lot loses any right for a dwelling. This is not an uncommon approach from councils in decisions to support concentration of rural residential housing in more suitable rather than less suitable locations. Clause 4.2A(3)(b) of the standard LEP provides for the continued denial of access to dwelling rights in such circumstances. The land forms part of a larger area of considerable environmental and scenic value. The arguments put do not in my view provide sufficient justification to revisit this earlier planning decision.</p>	
<p>285 Pacific Hwy Lake Munmorah: Around 2003 was intending to build, but changed plan after zoning changes to 10 (a) (Investigation Precinct Zone) and the building of Woolworths adjacent. Believes he is now a “caretaker” until the land is developed for residential. Unhappy that after waiting many years the current plans place the land in an RU6 Transition Zone “for the next 15 years”, principally due to “a coal mine that is unlikely to even start”. The view is expressed that the people of the north of the Shire want to move forward and that this can occur by bringing the urban development forward into the short term.</p>	<p>A number of submissions are seeking changes to the programming of land release, especially in the north of the Shire. This is considered in the body of the Public Hearing report (Attached).</p>	<p>Noted. No further action.</p>
<p>14 Chittaway Rd Ourimbah (Lot 3 DP2244 and Lot 2 DP456154): Land well located adjacent to the University campus at Ourimbah, rail, motorway, township and flood free. High demand for student accommodation here. Landowner wishes to get an impression from Council on site prospects before further spending on consultants. If not in Council’s plans for housing then would like to maintain a building entitlement on each lot which historical records will show existed.</p>	<p>Not appropriate to include in the current LEP. Landowner meeting with the Mayor and other Council personnel soon and indicated he is engaging planning consultants to provide specialist advice to him in this matter. I am unaware of the status of the housing opportunities study as indicated in the Residential Development Strategy (2002). The funding and prioritisation of such a study would reasonably be a matter for Council’s ongoing consideration. The university</p>	<p>Agreed.</p>

Site/Issues Raised in Submissions	Independent Report Recommendation	Council Response
	<p>campus is a positive feature as this parcel and the Ourimbah area in general competes for this prioritisation, and limited Council capacity to address the many claims for further housing opportunities.</p>	
<p>385 Brush Rd Tumbi Umbi; 19 Brush Rd Ourimbah: 19 Brush Rd (3 acres) has good access to the university campus and wonders why it is that this campus was able to develop and not the nearby land. See as opportunity to either “cut-off” the existing house block so two titles are created, or larger subdivision opportunity. This to allow capital for “self-funded retirement”. Town water, septic biotreatment and garbage services are available, with university bus service nearby. The Tumbi Umbi land is 32 acres and similar subdivision options are put in this submission.</p>	<p>Not appropriate to include in the current LEP. 19 Brush Road, Ourimbah: The Ourimbah site is currently zoned 1(c) (Non Urban Constrained Lands Zone) and the Tumbi Umbi site is zoned Zone No 7 (a) (Conservation Zone). A 40ha minimum lot size applies to these zones and is proposed with the draft Wyong LEP 2012. Both sites are wooded. Provided the applicable “constraint” could be resolved, this land would be reasonably considered as part of a housing opportunities study, as indicated in the Wyong Residential Development Strategy (2002). I am unaware of the status of this housing opportunities study. The funding and prioritisation of such a study would reasonably be a matter for Council’s ongoing consideration. The Newcastle University Campus proximity is a positive feature. 385 Brush Road, Tumbi Umbi: Site appears to have little in the way of arguments to support subdivision over many other lands zoned 40ha at present.</p>	<p>Agreed – However the Residential Development Strategy will be replaced by the Settlement Strategy once adopted by Council. Housing Opportunities Study is no longer proposed.</p>
<p>6 Sinclair Crescent Wyong (Lot 100 DP1074707): Seeks zoning change from R2 (low density residential) to R1 (general residential). This would allow higher density/mixed housing typology to meet the market but also more sensitive design. This site was seen to have similar capacities to the Landcom development precinct to the north, which was the more recent project. A point was also made about visual appearance from the motorway and capacity for more sensitive design and tree</p>	<p>Replace R2 Low Density zone with R1 General Residential zone. Land part of the land release program. In my view the major question is that of appropriate zoning for the larger holding intended for residential development. I concur with the view expressed that the development of the Landcom estate north of the site, with some mixing of lot sizes, is more in keeping with modern housing demographics, occupancy rates,</p>	<p>Disagree – As the chair of the public hearing has stated, such a zone change will need more detailed planning and commitments from the proponent, and/or some “fine tuning” of future development within the site. This is outside the scope of the draft Wyong LEP 2012, but could be considered a separate Planning Proposal.</p>

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<p>retention with mixed development and an R1 zone.</p> <p>A number of anomalies were suggested about site zoning including: zoning near the existing sewage pump station, the proposed E3 zone to the west of the residential land and other minor zoning inconsistencies.</p>	<p>market demands (based on the submission) and sustainability principles. R1 zone could allow for increased tree retention and an improved landscape setting for the site. There is also the question of new housing "fitting in" with the existing local residential character (whether and how this should occur). In my view it would be a worthwhile initiative to allow for a mix of housing density in this new residential area, and generally a minimum lot size may not be appropriate here (proposed 450m²). However, there may be a need for more detailed planning and commitments from the proponent, and/or the preparation of site specific clauses or zone overlays to allow for some "fine tuning" of future development within the site.</p>	
<p>91 Tumbi Rd, Tumbi Umbi (Lot 12 DP 21464): Seeks to retain pre-existing rights to use the property for agricultural activities. Rights have been lost with increase of environmental zones within the site. The key concerns are:</p> <ol style="list-style-type: none"> 1. Previous 7(g) (Wetlands Management Zone) allowed agriculture but new E2 Environmental Conservation zone does not. This is inconsistent with the intent of the zone changes in general. 2. About 1ha of land at the southern boundary currently zoned 7(a) (Conservation Zone) has been changed to E2 Environmental Conservation when it should be E3 Environmental Management. 3. About 4ha at the rear of the property above the flood line and should not have been included in the 7(g) zone should now be corrected and made E3 Environmental Management. 	<p>Proof-test the E2 zone. Remove E2 Environmental Conservation zone to correspond with previous 7(a) zone. If proof-testing confirms the E2 zone, examine whether an E3 zone is appropriate in an alternative suitable location within the site.</p> <p>The request to be allowed to continue limited agricultural activities on the site seems very modest. For a planning authority to remove such rights would require considerable evidence of quite high value environmental</p>	<p>Agreed - The site was inspected by Council's Ecologist. The site was found to have an Endangered Ecological Community (EEC) and therefore it is not recommended that the zone be changed from E2 Environmental Conservation to E3 Environmental Management. An E3 zone already applies to the appropriate portion of the site to permit a dwelling.</p> <p>The E2 zone has been applied to particularly sensitive environmental land.</p> <p>This site contains endangered ecological communities (EECs) where there has been historical "agricultural activities" which are considered to be minor</p>

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	<p>assets which would be jeopardised by continued agricultural use. Existing use rights: Agriculture is a permissible use under the current zoning, but requires consent. It is assumed that there is no formal consent for the current activities.</p> <p>Existing use rights refer to instances where a lawful activity becomes non-permissible due to a change in the LEP. In this case existing use rights may apply to allow continuing use of the site for agricultural purposes. There are uncertainties about existence and limits of existing use rights which suggest to me it is more appropriate to zone the land to appropriately allow the continuing agricultural activities.</p>	<p>and of a hobby nature rather than for an economic purpose. The land is not suited to agricultural activities. The current minor agricultural uses, particularly the keeping of goats, have had a significant impact on the structure and integrity of the EECs on the land. Agriculture is considered to be an unsuitable use of the land due to the physical constraints and environmental sensitivity and prohibition of agriculture is appropriate within the zone.</p> <p>While this site will benefit from existing use rights for the current low key agricultural activities, it is important to secure the environmental values of the land by preventing any significant increase in extent and intensity of agricultural uses.</p>
<p>475 Pacific Hwy, Crangan Bay:</p> <ol style="list-style-type: none"> Concerned with potential lost development rights. The current zoning is 7(b) Scenic Protection. The land is proposed to be zoned E3 Environmental Management with 40ha minimum lot size. New LEP penalises 7(b) land owners with reduced permissible uses. A key concern is the "green corridor" designation over the site, unfair to do so on private land without compensation. There is an inconsistency in that this site is zoned 7(b) and is proposed to be zoned E3, while a Council-owned quarry is zoned 7(b) and is proposed for RE1 Public Recreation which allows 	<p>The NWSSP and Settlement Strategy's urban land release program, green corridor, comparisons between permissible uses in zones and minimum lot size changes are addressed in the body of the Public Hearing report (Attached).</p> <p>In terms of continuing access to extractive resources on the site, there seem to be competing natural resource considerations for this site. It is not clear to the writer why the value of the land for environmental management should override the public interest in the land as an extractive resource. On the</p>	<p>Disagree – The site is currently zoned 7(b) (Scenic Protection Zone), which prohibits extractive industries. The only zones that permit extractive industries are RU1 Primary Production and RU2 Rural landscape. There is merit in recognising the current land use through the RU1 zone although this would be an isolated pocket of RU1 zone and the site is not suited to any other rural activity. However, the site is in a</p>

Site/Issues Raised in Submissions	Independent Report Recommendation	Council Response
<p>caravan parks and mobile home estates and other uses which were not permissible under the prior 7(b) zone.</p> <p>4. Adjacent land (Gwandalan Recreation Reserve) zoned RE1 which gives certain development opportunities when only separated by a fence.</p> <p>5. Council is ignoring Ministerial Direction 1.3 which is concerned with the protection of significant extractive resources. Existing use rights should not be relied upon for continued quarrying as the law could change over time.</p> <p>6. Zoning also inconsistent with Ministerial Direction 3.2 in restricting caravan park and Mobile Home Estate development.</p> <p>7. Requests an RU1 Primary Production zoning which include caravan parks (and MHEs).</p> <p>8. Requests identification of the site as a future urban release area.</p> <p>9. Also allow 20ha minimum lot size, consistent with current 7(b) zoning.</p>	<p>evidence which the hearing has had the opportunity to review, support recommended for the retention of the capacity for this resource to be extracted into the future. This is noted as a significant change to the current status of permissible uses on the land. Re-introduce permissibility of extractive industries to the site – Whether by zoning RU1, or adding as a permissible use within the zone under Schedule 1. The future role of this land in a green corridor would be important in directing this choice, as could relevant background involved in the current consent such as rehabilitation requirements.</p> <p>The site described as the Council-owned quarry is at Macleay Dr, Halekulani. The reasoning behind Council's decision for RE1 Public Recreation zone on this site is not known, and the objectives of this zone emphasise the public recreation function. While it is speculative, if it were the case that an underlying purpose of this zoning by Council was to one day in the future develop the site for a caravan park (or mobile home estate), a permissible use in the RE1 zone, there seems to be argument to suggest it a more suitable location for this use than 475 Pacific Hwy, given that the Halekulani site already abuts residential land and associated infrastructure.</p>	<p>very sensitive location and any proposal for future expansion should be subject to the same level of current controls, that is, expansion beyond existing use will require a Planning Proposal. The E3 Environmental Management zone is considered the appropriate translation zone for the existing 7(b) zone. Note that as agriculture is permitted in the E3 zone, the <i>SEPP (Mining, Petroleum Production and Extractive Industries) 2007</i> will permit mining on this site. If SEPP repealed, this will be a State-wide issue that will need to be resolved. It is unlikely that DP&I will support the additional permitted use for these reasons.</p>
<p>Lake Munmorah Flower Farm: Concern over permissibility of the use. This concern seems to be based on the fact that while <i>horticulture</i> is the appropriate definition for the current use, and is a form of <i>intensive plant agriculture</i>, the use <i>horticulture</i> is nominated as a permissible within the zone but the use <i>intensive plant agriculture</i> is not otherwise permissible. This</p>	<p>On Land use definitions: Under the draft LEP <i>horticulture</i> means <i>the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes</i>, but does not include a <i>plant nursery, turf farming or viticulture</i>. The definition also notes that "Horticulture is a type of intensive plant agriculture".</p>	<p>Noted. No further action.</p>

Site/Issues Raised in Submissions	Independent Report Recommendation	Council Response
<p>ambiguity was seen as a problem into the future.</p> <p>Concerned that RU6 Transition land is not exempt from <i>Native Vegetation Act</i>.</p> <p>Concerned with the Settlement Strategy indicating this land as long term development (Precinct 16).</p> <p>The staging criteria and basis of plans needs to be more transparent. Is coal mining the key issue driving the strategy?</p> <p>The site environs provides an opportunity for a major employment area and some other sites identified for earlier release as employment lands are mostly constrained.</p> <p>There are long time frames involved in land development (eg 10 years for industry).</p> <p>A master plan was tabled indicating the sites and their environs as employment lands with green corridor and habitat networks.</p>	<p>The LEP Template approach is an attempt to avoid repetition of numerous terms in the land use tables. This is done by using “group terms” and “subset terms” throughout the land use definitions applicable to all template LEPs. In this case the term <i>intensive plant agriculture</i> is a subset term, which also includes <i>viticulture</i> and <i>turf farming</i>. All other uses under this term are prohibited in the zone.</p> <p>On Native Vegetation Act and RU6 Land: The NV Act is generally concerned with clearing of native vegetation in rural lands and urban lands are controlled under the EPA Act through development consents. I am not familiar with whether RU6 land is classified as rural land under the NV Act, but the management of removal of native vegetation is intended one way or another. The answer to this question applies to the State and the matter could be taken up with relevant State authorities, not warranting further consideration in this report.</p> <p>No further action.</p>	
<p>84 Hue Hue Rd Alison and adjoining properties: Sites zoned RU1 Primary Production. The land is about 2km from Wyong. The land is no longer viable for farming and rates are high. Believes it's now time to change zoning to allow a limited range of additional uses (eg allow for amalgamation and development of aged care, nursing home, school, second dwellings etc). Concerned with changes to Hue Hue Rd – now partly zoned as infrastructure zone, same as the Freeway. Concerned about a new freeway ramp here.</p>	<p>Further opportunities for development in rural lands is considered in the body of the Public Hearing report (Attached).</p>	<p>Noted. No further action.</p>
<p>31 Daley St Doyalson North: Requesting lot sizes less than 40ha in RU6 Transition zone, and dwelling rights for created lots.</p>	<p>The question of extending development rights on rural lands is considered in the body of the Public Hearing report</p>	<p>Noted. No further action.</p>

Site/Issues Raised in Submissions	Independent Report Recommendation	Council Response
<p>Concerned about the loss of flexibility and opportunity of the former provisions of SEPP 1. The area around Precinct 16 is pertinent here because it already accommodates mixed subdivision size and land use ie the “vision” for the zoning would not be lost. Requests bringing forward of the Precinct 16 area extending from Doyalson North to Lake Munmorah due to its good access. Road access may not be as costly due to highway, four schools and Woolworths is already developing.</p>	(Attached).	
<p>44 Mona Rd, Woongarah: Concerned about communication process – seems LEP is being rushed through with not much in the way of education for ratepayers. Big documents and meetings held at inconvenient times for workers. Particular concerns include: How was the E2 Environmental Conservation zone determined on this site? Sensitivity for the creek line is agreed but the E2 zone appears to show trees which are well beyond the creek line. Will it have an effect on land value? Will this zone bring a reduction in rate? Will it change insurance rates? Concerned about catchment management – There is lots of development upstream of property built on wetlands and filling previous lower lands. This property will be among the most affected unless good management and planning.</p>	Proof-test to confirm boundary of E2 Environmental Conservation zone away from the creek line.	Agreed – The site contains an Endangered Ecological Community (EEC) however, there is a finger of vegetation mapped as EEC that is not EEC. It is recommended that the E2 zone be changed to E3 Environmental Management zone where the vegetation is not EEC.
<p>11 Pacific St Long Jetty: A number of commercial and residential units use the subject land as the only access way and that the parking is also important for the commercial use of the sites. Zoning change proposed from 5(a) Special Uses Parking to B2 Local Centre with a wider range of uses and potential for sale of the land which could disenfranchise existing uses.</p>	The decision to zone this land B2 Local Centre is supported , as this is a reasonable step as it can widen the range of permissible uses and may improve the commercial and mixed use prospects for this locality. For example multi-level commercial or mixed use development may be more likely through this change with parking underneath etc. However this should not occur at an	Agreed.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

Site/Issues Raised in Submissions	Independent Report Recommendation	Council Response
	unreasonable cost to people/businesses which have already invested in the centre. It should be a pre-requisite for the rezoning that no detriment occur to other commercial land owners in the vicinity. This can occur through caveats and restrictions as to user with rights to the relevant landowners including this submitter.	
Sites zoned E3 Environmental Management and E4 Environmental Living	Add <i>secondary dwellings and dual occupancies as permissible land uses</i> within these zones.	Agreed.
Sites previously zoned 7(b) (Scenic Protection Zone) which have had minimum lot size changed from 20ha to 40ha.	Re-introduce 20ha minimum lot size. (The analysis behind this recommendation noted that there was no evidence presented in support of this change to minimum lot sizes – Council may have such information available).	Agreed – This was a mapping error and was not intentional.

RECOMMENDED AMENDMENTS TO DRAFT WYONG LEP 2012 AND DRAFT SETTLEMENT STRATEGY – OTHER

The following issues have been identified since commencement of public exhibition (not raised in submissions) that are recommended to be amended as follows:

- **Clause 4.1C Exceptions to minimum lot sizes for certain residential development:**
In order to maintain the integrity of the R2 Low Density Residential zone and Council's Dual Occupancy DCP provisions, a modification to the clause is recommended. Amend as follows (deleted text identified by strikethrough, new text identified as red text):

4.1C Exceptions to minimum lot sizes for certain residential development

- (1) *The objective of this clause is to ~~encourage housing diversity and to protect residential amenit~~ **provide opportunities for affordable housing in appropriate locations and to encourage housing diversity without adversely impacting on residential amenity.***
- (2) *This clause applies to development on land shown in ~~Zone R2 Low Density Residential~~ **on the Land Zoning Map within the following zone:***
 - (a) **Zone R2 (Low Density Residential)**
- (3) *Development consent may be granted to a single development application for development **on land** to which this clause applies that is **either both** of the following:*
 - (a) ~~the subdivision of land into 2 or more lots, and the subdivision of land into 5 or more lots, and the erection a dwelling house on each lot resulting from the subdivision~~
 - (b) ~~the erection of a semi detached dwelling, or a dwelling house on each lot resulting from the subdivision~~ **construction and subdivision of a dual occupancy**

- ~~(4) Before granting consent to development under this clause, the consent authority must be satisfied that each dwelling:~~
- ~~(a) will be appropriately interrelated with other dwellings included within the development application, and~~
- ~~(b) will not have a significant adverse impact on adjoining land having regard to visual and overshadowing impacts, and~~
- ~~(c) will include adequate pedestrian, vehicular and service access, circulation and parking.~~
- (4) *Subject to (3), a single development application must include dwelling designs for each lot having regard to:*
- (a) *the achievement of the principles of ecologically sustainable development, and*
- (b) *the interrelationship of each dwelling to each lot included within the development application, and*
- (c) *the impact of the height of the development upon development situated on adjoining land, having regard to visual and overshadowing impacts, and*
- (d) *pedestrian, vehicular and service access, circulation and parking requirements."*

- **Clause 7.8 – Key Sites:** This clause incorrectly references Clause 4.2(2), which refers to rural subdivision. Accordingly the clause is recommended to be amended to reference Clause 4.3(2), which references the height of building maps within draft Wyong LEP 2012.

- **Clause 4.1A Strata subdivisions in certain rural, residential and environmental protection zones:** An issue has come to light that draft Wyong LEP 2012 as currently drafted will permit strata subdivision in certain rural, residential and environmental protection zones, potentially leading to lot fragmentation and creation of additional dwelling entitlements. It is recommended the following clause be added to address the issue:

4.1A Strata subdivisions in certain rural, residential and environmental protection zones

- (1) *The objective of this clause is to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.*
- (2) *This clause applies to land in the following zones that is used, or proposed to be used, for residential accommodation or tourist and visitor accommodation:*
- (a) *Zone RU1 Primary Production,*
- (b) *Zone RU2 Rural Landscape,*
- (c) *Zone RU5 Village*
- (d) *Zone RU6 Transition*
- (f) *Zone R5 Large Lot Residential*
- (g) *Zone E2 Environmental Conservation,*
- (h) *Zone E3 Environmental Management*
- (i) *Zone E4 Environmental Living*
- (3) *Development consent must not be granted for the subdivision of a lot to which this clause applies under a strata scheme that would create lots below the minimum size shown on the Lot Size Map for the land.*

- **Land Reservation Acquisition maps:** A large number of acquisition sites identified by Roads & Maritime Services (RMS) to be acquired for public roads were identified on the Land Reservation Acquisition maps during exhibition. DP&I approved these Land Reservation Acquisition maps and Land Zoning maps that included the appropriate zoning for these acquisition sites, however a map error resulted in these zonings being removed from the Land Zoning maps prior to public exhibition. To avoid future liability it is recommended that the relevant road acquisition sites be removed from the Land

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

Reservation Acquisition maps and added to Amendment 1 of the Draft Wyong LEP 2012. This has been discussed with RMS.

- **Flood Planning Area maps:** Two Flood Risk Management Studies that allow for climate change have been exhibited by Council – Tuggerah Lakes and Porters Creek. Flood Planning Area maps in draft Wyong LEP 2012 incorporate these studies. If Council's other Flood Risk Management Studies incorporated a climate change allowance, this would also have been included in the Flood Planning Area mapping, as this formed part of the previous State Government policy on climate change. As the current State Government has not adopted a position yet, as an interim measure it is recommended that the Flood Planning Area maps retain the climate change allowance as exhibited and that the maps clearly indicate the locations affected by climate change considerations as a hatched area. All development applications in the hatched area will be assessed on a merit basis, subject to providing an appropriate strategy to address flood issues.

- **Minimum Lot Size maps amendments:**
 - RE1 Public Recreation and RE2 Private Recreation zones: Amend Minimum Lot Size maps to remove minimum lot size from these zones. A number of RE1 and RE2 sites were exhibited with a minimum lot size, however these zones should not have a minimum lot size.
 - 79 Baileys Road, Ourimbah (Lot 167 DP 792143) and 39 Baileys Road, Ourimbah (Lot 100 DP 602338): Amend Minimum Lot Size map to 40ha in accordance with adjacent minimum lot size. The minimum lot size as advertised (20ha) was incorrect.
 - 35 De L'Isle Drive, Wyong (Lot 1000 DP 1152243) and the portion of 14 Cowan Street, Watanobbi (Lot 1 DP 800409) zoned R2 Low Density Residential zone: As advertised, a 20ha minimum lot size and no minimum lot sizes apply to these sites respectively. Amend Minimum Lot Size map to introduce a 450m² minimum lot size for both sites, in accordance with the surrounding R2 zone.

- **Land Zoning Map amendments:**
 - 224 Main Road, Toukley (Lot 5 DP 514932): Amend Land Zoning map from RE1 Public Recreation to SP3 Tourist zone, in accordance with adjoining property.
 - Land adjacent to 39 Baileys Road, Ourimbah (Lot 100 DP 602338): Amend Land Zoning map of unformed Tuggerah Street from SP2 Infrastructure – Road & Traffic Facility to E3 Environmental Management, as this is not required as road reserve.
 - 25 Bemboka Crescent, Glenning Valley (Lot 412 DP 868340); 27 Bemboka Crescent, Glenning Valley (Lot 413 DP 868340); 27 Bemboka Crescent, Glenning Valley (Lot 414 DP 868340); 31 Bemboka Crescent, Glenning Valley (Lot 455 DP 786675): Amend Land Zoning map from R2 Low Density Residential to R1 General Residential, consistent with remainder of site.
 - Gwandalan Bowling Club – 70 Gamban Road, Gwandalan (Lot 2 DP 28962 and Lot 1 DP 800051): Amend Land Zoning map from RE2 Private Recreation to RE1 Public Recreation, as these allotments are owned by Wyong Shire Council. Remaining allotments owned by bowling club to retain RE2 zone.
 - 1442 George Downes Drive, Kulnura (Lot 21 DP 1003391); 1440 George Downes Drive, Kulnura (Lot 1512 DP 854365); 1380 George Downes Drive, Kulnura (Lot 133 DP 755261); 1380 George Downes Drive, Kulnura (Lot 133 DP 755261); 1348 George Downes Drive, Kulnura (Lot 3 DP 612960): Amend Land Zoning map from

- RU5 Village zone to RU2 Rural Landscape zone. This was a mapping error, landowners were advised by letter of the error during exhibition, no objections received. Please note that the 20 hectare Minimum Lot Size was correctly advertised.
- 83 Walkers Ridge Road, Kulnura (Lot 1 DP 710129); 43 Walkers Ridge Road, Kulnura (Lot 2 DP 710129); 35 Walkers Ridge Road, Kulnura (Lot 3 DP 710129); 2230 George Downes Drive, Kulnura (Lot 4 DP 710129); 2184 George Downes Drive, Kulnura (Lot 5 DP 710129); 2166 George Downes Drive, Kulnura (Lot 3 DP 613192); 2100 George Downes Drive, Kulnura (Lot 4 DP 613192); 2064 George Downes Drive, Kulnura (Lot 162 DP 755261); 1960 George Downes Drive, Kulnura (Lot 164 DP 755261); 1906 George Downes Drive, Kulnura (Lot 165 DP 755261); 1860 George Downes Drive, Kulnura (Lot 166 DP 755261): Amend Land Zoning map from RU6 Transition zone to RU2 Rural Landscape zone. This was a mapping error, landowners were advised by letter of the error during exhibition, no objections received. Please note that the 20 hectare Minimum Lot Size was correctly advertised.
 - 30 Manns Road, Fountaindale (Lot 3 DP 657514): Amend Land Zoning map from E2 Environmental Conservation and E4 Environmental Living zones to E2 Environmental Conservation zone, subject to a Council resolution dated 12 December 2012. This is a much more restrictive environmental zoning and is considered an appropriate post-exhibition amendment. Amend Minimum Lot Size map to 40ha accordingly.
 - 202 Tumbi Road, Tumbi Umbi (Lot 412 DP 747436); 204 Tumbi Road, Tumbi Umbi (Lot 42 DP 574001) and 8A Sals Lane, Tumbi Umbi (Lot 1 DP 1023159): Amend Land Zoning map to reduce the amount of E4 Environmental Living zone land to reflect the current extent of 7(c) (Scenic Protection – Small Holdings Zone) land. Please note that the Minimum Lot Size was correctly advertised and reflected current extent of 7(c) and 7(a) (Conservation Zone) land. This was a mapping error, and landowners were advised by letter of the error during exhibition.
 - 96W Mataram Road, Woongarra (Lot 263 DP 1036768); 94W Mataram Road, Woongarra (Lot 262 DP 1036768) - Incorrectly zoned RU6 Transition. Amend Land Zoning map to E2 Environmental Conservation in accordance with remainder of these allotments. Amend Minimum Lot Size map to 40ha accordingly.
 - 39W Peppercorn Avenue, Woongarra (Lot 41 DP 1046658); 68W Highberry Street, Woongarra (Lot 400 DP 1074910) - Incorrectly zoned RU6 Transition. Amend Land Zoning map to E2 Environmental Conservation in accordance with remainder of these allotments. Amend Minimum Lot Size map to 40ha accordingly.
 - 192 Virginia Road, Hamlyn Terrace (Lot 1 DP 130423): Roadway adjacent to this site has been incorrectly zoned RU6 Transition. Amend Land Zoning map to IN1 General Industrial zone in accordance with adjacent allotments.
 - 31 Queenscliff Place, Mardi (Lot 25 DP 270607): Land adjacent to this site incorrectly zoned RU6 Transition. Amend Land Zoning map to E3 Environmental Management zone in accordance with adjacent allotments. Amend Minimum Lot Size map to 40ha accordingly.
 - 3 Corella Close, Berkeley Vale (Lot 101 DP 841453) and 4 Corella Close, Berkeley Vale (Lot 2 DP 803671): Amend Land Zoning map from E2 Environmental Conservation zone to IN1 General Industrial zone in accordance with results of ground truthing undertaken by Council's Consultant. Amend Minimum Lot Size map to no minimum lot size accordingly.

- 39 Baileys Road, Ourimbah (Lot 100 DP 602338): Amend Land Zoning map for portion of site zoned RE1 Public Recreation to E3 Environmental Management zone in accordance with adjacent zone.
- Lakeland Park Village – 314 Buff Point Avenue, Buff Point: Amend Land Zoning map from E3 Environmental Management zone to RE2 Private Recreation zone, in order to permit the existing use of the site as a caravan park. This site was overlooked when converting other caravan parks to appropriate zones. Amend Minimum Lot Size map to no minimum lot size accordingly.
- Homeland Caravan Park – 195 Johns Road, Wadalba (Lot 3 DP 536569): Amend Land Zoning map from R2 Low Density Residential zone to R1 General Residential zone, in order to permit the existing use of the site as a caravan park. This site was overlooked when converting other caravan parks to appropriate zones. Amend Minimum Lot Size map to no minimum lot size accordingly.
- Palm Springs Relocatable Home Village – 157 & 181 Minnesota Road, Hamlyn Terrace (Lot 22 DP 803506 & Lot 1 DP 583083): Amend Land Zoning map for portion of these sites from R2 Low Density Residential zone to R1 General Residential zone, in order to permit the existing use of the site as a caravan park. This site was overlooked when converting other caravan parks to appropriate zones. Amend Minimum Lot Size map to no minimum lot size accordingly. Existing E3 Environmental Management zone to be retained.
- Lake Macquarie Lodge - 131 Griffith St, Mannering Park (Lot 1461 & 1462 DP 526398): Amend Land Zoning map for this site from R2 Low Density Residential zone to R1 General Residential zone, in order to permit the existing use of the site as a caravan park. This site was overlooked when converting other caravan parks to appropriate zones. Amend Minimum Lot Size map to no minimum lot size accordingly.
- Lake Munmorah Residential Resort - 340 Pacific Highway, Lake Munmorah (Lot 114 DP 755266): Amend Land Zoning map from E3 Environmental Management zone to RE2 Private Recreation zone, in order to permit the existing use of the site as a caravan park. This site was overlooked when converting other caravan parks to appropriate zones. Amend Minimum Lot Size map to no minimum lot size accordingly.
- Lakeside Leisure Village - Lot 1 Kamilaroo Avenue, Lake Munmorah (Lot 1 DP 633076): Amend Land Zoning map from E3 Environmental Management zone to RE2 Private Recreation zone, in order to permit the existing use of the site as a caravan park. This site was overlooked when converting other caravan parks to appropriate zones. Amend Minimum Lot Size map to no minimum lot size accordingly.
- Monterey Caravan Park - 28 Monterey Ave, Mannering Park (Lot 2 DP 1038683, Lot 28 DP 518558, Lot 1 DP 1038683): Amend Land Zoning map for portion of these sites from R2 Low Density Residential zone to R1 General Residential zone, in order to permit the existing use of the site as a caravan park. This site was overlooked when converting other caravan parks to appropriate zones. Amend Minimum Lot Size map to no minimum lot size accordingly. Existing RE1 Public Recreation zone to be retained.
- Tuggerah Village - 111-115 Pacific Highway, Kangy Angy (Lot 21 DP 246610): Amend Land Zoning map from E3 Environmental Management zone to RE2 Private Recreation zone, in order to permit the existing use of the site as a caravan park. This

- site was overlooked when converting other caravan parks to appropriate zones. Amend Minimum Lot Size map to no minimum lot size accordingly.
- Walu Caravan Park - 32 Walu Ave, Halekulani (Lot 1750 DP 25451): Amend Land Zoning map for this site from R2 Low Density Residential zone to R1 General Residential zone, in order to permit the existing use of the site as a caravan park. This site was overlooked when converting other caravan parks to appropriate zones. Amend Minimum Lot Size map to no minimum lot size accordingly.
 - Macquarie Lakeside Village – Chain Valley Bay Road, Chain Valley Bay (Lot 1 DP 214300): Amend Land Zoning map from E3 Environmental Management zone to RE2 Private Recreation zone, in order to permit the existing use of the site as a caravan park. This site was overlooked when converting other caravan parks to appropriate zones. Amend Minimum Lot Size map to no minimum lot size accordingly.
 - 2-10 Amy Close, Wyong (Lot 400 DP 1114793): Amend Land Zoning Map from E2 Environmental Conservation to E3 Environmental Management to reflect ground-truthing of EEC.
 - 4 Dulmison Avenue, Wyong (Lot 1 DP 1090455): Amend Land Zoning Map from E2 Environmental Conservation to IN1 General Industrial to reflect ground-truthing of EEC. Amend Lot Size Map to match zone change (removal of 40ha).
 - 7 Palm Tree Road, Wyong (Lot 32 DP 1093732): Amend Land Zoning Map from E2 Environmental Conservation to IN1 General Industrial to reflect ground-truthing of EEC. Amend Lot Size Map to match zone change (removal of 40ha).
 - 39 Bryant Drive Tuggerah (Lot 1 DP 1134622): Amend Land Zoning Map from E2 Environmental Conservation to E3 Environmental Management to reflect ground-truthing of EEC.
 - 45 Warner Ave and 16 Boyce Ave Wyong (Lot 1 DP 1121754 and Lot 11 DP 596616): Amend Land Zoning Map from E2 Environmental Conservation to E3 Environmental Management to correct apparent error in transposing EEC mapping. Land does not contain EEC and the current 1(c) zone is recommended to be the standard translation to E3.
 - 134 Pacific Highway Ourimbah (Lot 50 DP 832343): Amend Land Zoning Map from E2 Environmental Conservation to E3 Environmental Management to reflect ground-truthing of EEC.
 - 133CR Budgewoi Road, Noraville (Pt Lot 523 DP 704440): Amend Land Zoning Map from E2 Environmental Conservation to E3 Environmental Management for part of this site, to reflect ground-truthing of EEC and consideration of adjoining development.
 - 101 Soldiers Point Drive, Norah Head (Lot 101 DP 1181697) & 120 Soldiers Point Drive, Norah Head (Lot 7338 DP 1157063): Amend Land Zoning Map from E2 Environmental Conservation to E3 Environmental Management for part of these sites, to reflect ground truthing of EEC and consideration of adjoining development.
 - 40 Wilfred Barrett Drive, Magenta (Lot 623 DP 822104): Amend Land Zoning Map from E2 Environmental Conservation to E3 Environmental Management for part of this site, to reflect ground-truthing of EEC and consideration of adjoining development.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

- **Secondary dwellings and dual occupancies:** The E3 Environmental Management zone excluded secondary dwellings and dual occupancies as a permissible land use in error. The E4 Environmental Living zone excluded secondary dwellings as a permissible land use in error. It is recommended that secondary dwellings be added as a permissible use in the E4 Environmental Living zone; and that dual occupancies and secondary dwellings be added as a permissible use in the E3 Environmental Management zone.
- **Animal boarding or training establishments:** The R5 Large Lot Residential zone excluded animal boarding or training establishments as a permissible land use in error. This use was proposed as a permissible land use in the E4 Environmental Living zone, the equivalent to R5 east of the F3 Freeway. It is recommended that this use be added to the R5 Large Lot Residential zone.

RECOMMENDED AMENDMENTS TO DRAFT WYONG DCP 2012 – OTHER

The consideration of formal external submissions on the draft Wyong DCP 2012 is included in Enclosures 1 & 2. In addition, the following issues have been identified since commencement of public exhibition (not raised in submissions) that are recommended to be amended as listed below. The following primary amendments to the draft DCP will be incorporated within a final version of the plan prior to notification and the submission of a copy to the Director-General of the DP&I:

- Adoption of Chapter 2.1: Dwelling Houses and Ancillary Structures as exhibited. A further review of residential provisions, having regard to the impact of forecasted amendments to the Codes SEPP and issues raised by staff is to be undertaken as a high priority matter on the Strategic Development Unit's work program, and will form part of Amendment 1 to the DCP;
- Amendment of Chapter 2.7: Caravan Parks to increase the percentage of sites to be retained for tourist accommodation from 50% to 80%, in line with Council's tourist parks. Remove unachievable requirements for 'affordable housing';
- Adopt Chapter 3.3 Floodplain Management as exhibited.
- Adopt Chapter 3.5: Coastal Hazards as exhibited. Review of Coastal Zone Management Plan will inform any future amendments required having regard to "widely accepted competent scientific opinion";
- Deferral of draft Chapter 3.2 - Water Sensitive Urban Design (WSUD), and associated Technical Guidelines. A review of current industry practice, Council's infrastructure maintenance costs/service levels, together with the increasing uptake of Complying Development in NSW has indicated that the "lot scale" provisions will be largely ineffective and therefore the sizing of other elements within the "treatment train" requires review;
- Amend Chapter 3.6: Tree and Vegetation Management to accord with recent change to Council's Tree Policies;
- Amend Chapter 6.16: Warnervale – F3 Freeway Service Centres to remove requirement for identical facilities; and
- Renumber Chapters and make other consequential, typographical, formatting and cross-referencing revisions as required.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

AMENDMENTS TO DRAFT WYONG LEP 2012, DRAFT SETTLEMENT STRATEGY AND DRAFT WYONG DCP 2012 FOLLOWING EXHIBITION

The draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012 (as exhibited) will be amended to:

- Incorporate recent changes to the LEP standard instrument where required.
- Amendments following the review of submissions as summarised in Enclosures 1 & 2, if endorsed by Council following consideration of this report.
- Other minor amendments to resolve errors or other issues following the review of submissions as listed above, if endorsed by Council following consideration of this report.
- Amendments as requested by Council – The draft Wyong LEP 2012 will be amended to incorporate any amendments required by Council following the consideration of this report and responding to issues raised within Enclosures 1 & 2.

The proposed amendments to the draft Wyong LEP 2012 are required to be prepared in consultation with the DP&I, prior to a submission to the Director-General of the DP&I under the provisions of Section 68 of the EP&A Act.

DEPARTURES FROM COUNCILLOR ADVICE

The following departures from Councillor advice are recommended as part of this report:

- **Inclusion of eco-tourist facilities as a permissible land use in E2 Environmental Conservation zone:** The proposed E2 Environmental Conservation zone has been applied to the most 'significant' conservation land, wetlands, littoral rainforests endangered ecological communities (EEC's) and land acquired by Council for conservation (refer Environmental Management Framework). There are existing 'significant' limitations on development of this land under the Threatened Species Conservation Act. This is reflected in the limited land use permissibility. For these reasons, the use is considered to be inconsistent with the environmental objectives of the zone. Eco-tourist facilities are permitted in the E3 Environmental Management and SP3 Tourist zones.
- **Zoning of 2(b) (Multiple Dwelling Residential Zone) land at The Entrance North to R2 Low Density Residential zone:** The Entrance North is rated 'high [flood] risk' in the draft 'Tuggerah Lakes Risk Management Plan' and is expected to be significantly impacted by future climate change. An area within The Entrance North bounded by Wilfred Barrett Drive to the north and west, the Pacific Ocean to the east, and Hargraves Street to the south, is currently zoned 2(b) (Multiple Dwelling Residential zone) which is now considered to be inappropriate given the flood and coastal hazard within this area. The equivalent zone to 2(b) (Multiple Dwelling Residential zone) under the SI is the R1 General Residential zone, which permits residential flat buildings and other higher residential density uses. These uses are no longer considered appropriate given the identified constraints. As a result, draft Wyong LEP 2012 proposes to rezone this area of The Entrance North to the R2 Low Density Residential zone.
- **Zoning of 4 Buttonderry Way, Jilliby from 7(c) (Scenic Protection – Small Holdings Zone) to RU6 Transition zone:** At the Council Workshop held on 20 March 2013, Councillor's agreed that this should be considered as a separate Planning Proposal. However, the objection related to the proposed rezoning of this land to RU6 Transition

zone from the current 7(c) (Scenic Protection – Small Holdings Zone), at the request of the DP&I. It is recommended that the zoning of this site and the remainder of North Wyong Shire Structure Plan (NWSSP) Precinct 1 be amended to reflect the direct conversion zone – R5 Large Lot Residential zone. Precinct 1 is already subdivided down to the minimum lot size, therefore a zoning to RU6 will have no value in terms of minimising further land fragmentation.

- **Zoning of 76 Boyce Avenue, Wyong to R2 Low Density Residential zone:** It is not recommended that this site be rezoned from the current 1(c) (Non-Urban Constrained Lands Zone) to R2 Low Density Residential, as requested by the landowner. The E2 Environmental Conservation and E3 Environmental Management zones are the appropriate conversion zones for this site, as it is not within the scope of the draft Wyong LEP 2012 to incorporate rezoning requests such as this, particularly given the flood affected nature of this site.
- **Zoning of Carters Road, Lake Munmorah to RU6 Transition:** At the Council Briefing held on 3 April 2013, Council requested the staff consider rezoning the part of the site identified as Precinct 16 in the NWSSP as RU6 Transition zone. However, the site is not located within a NWSSP precinct. It is therefore inappropriate to include this site in the RU6 Transition zone.
- **Zoning of residential component of Kooindah Waters from SP3 Tourist to R2 Low Density Residential zone:** Dwellings, semi-detached dwellings and attached dwellings are all permissible in the SP3 Tourist zone. The SP3 Tourist zone does not have a minimum lot size. Given that the R2 Low Density Residential zone has a minimum lot size of 450m², and the majority of allotments at Kooindah Waters has a smaller lot size than this, it is recommended that the SP3 zone be retained.
- **Zoning of 3 Lake Street and 8 Minto Street, Long Jetty from R2 Low Density Residential to B6 Enterprise Corridor** - It is not recommended that this site be rezoned from the current 2(a) (Residential Zone) to B6 Enterprise Corridor zone, as requested by the landowner. The proposed zoning to B6 Enterprise Corridor is inconsistent with The Entrance Peninsula Planning Strategy (TEPPS) and the Planning Controls for The Entrance Peninsula Final Report. It is potentially consistent with the TEPPS objectives and strategic directions for facilitating improved connections, safe and convenient movement of vehicles and encouraging improvement of business properties along the Central Coast Highway. However, whilst the proposal may have merit, the submission does not make an adequate case for rezoning and a separate Planning Proposal will be required, providing adequate justification and demonstrates to Council's satisfaction that the properties will be amalgamated with the broader 'Mooers' lands. Adjoining landowners will also be able to comment on the proposed amendment.
- **Ground-truthing of 51 Teralba St, Ourimbah to determine appropriate zoning:** No need to ground truth as the proposed zones are a direct translation of existing zones, there is only a very small area of EEC proposed to be zoned E2 Environmental Conservation and landowner has not objected to this.
- **Ground-truthing of 165 Louisiana Road, Wadalba to determine appropriate zoning:** There is no need to ground truth as E2 Environmental Conservation zone boundary based on adopted Wadalba Wildlife Corridor Management Plan with an agreed minor variation based on an approved subdivision.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

- **Ground-truthing of 447 Tuggerawong Road, Tuggerah to determine appropriate zoning:** There is no need to ground truth as E2 Environmental Conservation boundary is based on a direct translation of the 7(g) (Wetlands Management Zone), for which ground-truthing was carried out prior to this zone being applied under Wyong LEP 1991.
- **Ground-truthing of 2-10 Cams Blvd, Summerland Point to determine appropriate zoning:** There is no need to ground truth as E2 Environmental Conservation boundary based on site compatibility certificate issued by the DP&I.
- **Ground-truthing of 49, 51 and 227 Brush Creek Road, Cedar Brush Creek and 164 Ravensdale Road, Ravensdale to determine appropriate zoning:** There is no need to ground truth - the zone boundaries between the RU1 Primary Production and E3 Environmental Management zones are direct translations of existing zones. The submission is based on an incorrect premise that extensive agriculture is prohibited in the E3 zone, but it is actually permissible. No change in zone is required.
- **Ground-truthing of Lot 2332 DP 1020952 and Lot 231 DP 755271 – Mandalong Road, Dooralong to determine appropriate zoning:** There is no need to ground truth. The E2 Environmental Conservation mapping is recommended to be amended based on the mapping of EEC in the Property Vegetation Plan that applies to the site.
- **Addition of 475-535 Pacific Hwy, Crangan Bay to Schedule 1 Additional Permitted Uses for the purpose of extractive industries:** It is not agreed that extractive industries should be included in Schedule 1 -Additional Permitted Uses. This use is enabled by SEPP (Mining, Petroleum Production and Extractive Industries) 2007. If SEPP repealed, this will be a State-wide issue that will need to be resolved. It is unlikely that the DP&I will support the additional permitted use for these reasons.
- **Review of RU6 Transition zoned land:** This review is outside the scope of the draft Wyong LEP 2012 at this stage, and is therefore recommended to be carried out as part of Amendment 1 to the LEP.

CONTAMINATION ISSUES

Exemption from liability - contaminated land

Section 145B of the EP&A Act provides for Council to avoid liability in relation to contaminated land when carrying out its planning functions, including the preparation, and making, of an LEP. To achieve exemption from liability, Council must demonstrate it has "acted in good faith" in preparing draft Wyong LEP 2012 in respect to contamination issues. Council is taken to have acted in good faith if it has undertaken actions in accordance with the contaminated land planning guidelines.

The contaminated land planning guidelines referred to in section 145B were adopted in 1998 in conjunction with the making of State Environmental Planning Policy 55 - Remediation of Land (SEPP 55). The guidelines are called "Managing Land Contamination - Planning Guidelines" (the Guidelines). In preparing draft Wyong LEP 2012, SEPP 55 and the Guidelines require Council to assess potential contamination in respect to:

1. Investigations Areas

Investigation area is defined as an area declared under the *Contaminated Land Management Act 1997*. Council is required to assess potential contamination where draft Wyong LEP 2012 proposes to permit a change of use of the land identified in an investigation area. There are four sites within Wyong LGA that have been declared to be "investigation areas" and only 2 are current:

- **Former Bateau Bay Landfill and Pat Morley Oval:** The site is subject to a voluntary remediation agreement. Current zoning of 6(a) (Open Space and Recreation Zone), 6(c) (Proposed Open Space and Recreation Zone) and 5(a) (Special Uses Zone) proposed to convert to RE1 Public Recreation under draft Wyong LEP 2012.
- **Timber Treatment Plant, Railway and Aldenham Roads Warnervale:** A series of site audit reports were prepared for the site following remediation and the contaminated land notice was revoked in January 2006.
- **Drum Dump, Warner Ave Wyong:** This site was remediated as part of the Kooindah Waters Resort development. The contaminated land notice was revoked in 1998.
- **16 Lucca Road, Wyong:** Current zoning of 4(a) (Industrial Zone) proposed to convert to IN1 General Industrial under draft Wyong LEP 2012.

In respect to the 2 current declared investigation areas:

- **Former Bateau Bay Landfill and Pat Morley Oval:** No significant change is proposed to the zone for this site, and it is considered that the voluntary remediation agreement that currently applies to the site ensures the land will only be used for a purpose that is consistent with the remediation plan.
- **16 Lucca Road, Wyong:** No zone change is proposed for this site.

2. Known Potential Contaminated Sites

Council is required to assess proposed rezoning of sites known to have been used for contaminating land uses. Council compiled a potentially contaminated sites register (the Register) in September 1996 following the introduction of SEPP 55 and when the exemption from liability provisions were added to the EP&A Act. The Register has been maintained and updated from development consents issued for potentially contaminating land uses. Any application for development of sites identified in the Register are subject to contamination assessment in accordance with SEPP 55 (clause 7).

This is also taken to include changes proposed as a result of The Entrance Peninsular Planning Strategy, the Toukley Planning Strategy and the Wyong Tuggerah Planning Strategy. An assessment of zone changes proposed in the Investigation Areas has been completed, and will be provided to DP&I as part of Council's Section 68 submission. These reports have been prepared in accordance with SEPP 55 and the Guidelines and are considered to satisfy the test of "acting in good faith" in respect to investigation areas.

It is considered that the Register and assessment process satisfy the test of "acting in good faith" in respect to known potential contaminated sites.

3. Proposed Sensitive Land Uses

Council is required to assess potential contamination where draft Wyong LEP 2012 proposes to permit a change of use of land to allow residential, educational, recreational, child care purposes or for a hospital and where land may have been used for a contaminating land use in the past but there is no knowledge or incomplete knowledge of past land uses. Draft Wyong LEP 2012 proposes a number of minor changes to permissibility in a range of zones. This is due to changes in land use definitions in the Standard Instrument and also to provide a more flexible approach to certain land uses.

Whilst for the most part, the range of permissible and prohibited uses for each conversion zone is very similar to the zone under Wyong LEP 1991, a number of new permissible land uses within certain zones needs to be considered in the context of potential contamination of land within these zones and the suitability of these sites for certain land uses. The particular land use of concern is **child care centres**. Currently, the 7(c) (Scenic Protection – Small Holdings Zone) does not permit child care centres. The standard conversion to E4 Environmental Living and R5 Large Lot Residential (depending on location) both propose to permit child care centres as permissible land uses. The 7(c) (Scenic Protection – Small Holdings Zone) permits agriculture and horticulture which are potentially contaminating land uses, and Council's database of potentially contaminated sites cannot be assumed to be adequate to identify all sites subject to potential contamination.

Consequently, permitting Child Care Centres in these zones represents a low to moderate risk to human health. The level and extent of contamination from past agricultural and horticultural activities is likely able to be remediated to make the land suitable for child care centres. To manage the risk, Council needs to be satisfied that land will be remediated before it is used for the sensitive land use. Otherwise, Council should not make the land use permissible.

The Guidelines recognise that it is impractical for Council to be satisfied that every part of the land is suitable for the proposed land uses in terms of contamination. The guidelines allow the rezoning to proceed provided measures are in place to ensure that the potential for contamination and the suitability of the land for any proposed use are assessed once detailed proposals are made.

It is recommended that Council's current Policy P1 Potentially Contaminated Land be revised to ensure applications for sensitive land uses are assessed in accordance with the Guidelines and the specific provisions of clause 7 of SEPP 55. This assessment is currently undertaken as a general practice however Policy P1 does not identify this requirement. To satisfy the Guidelines, amendment of Policy P1 will ensure "measures are in place" to ensure potential contamination and suitability are assessed.

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The Local Government Amendment (Ecologically Sustainable Development) Act, 1997 amended the Local Government Act, 1993 (LG Act) to require Council to give consideration to the principles of Ecologically Sustainable Development, namely the adoption of the precautionary principle, intergenerational equity, the conservation of biological diversity and

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

ecological integrity, and improved valuation, pricing and incentive mechanisms. The draft Wyong LEP 2012 has considered these principles to ensure that the proposed draft Wyong LEP 2012 is consistent with the provisions of the LG Act.

TIMEFRAMES

The majority of the work required to prepare draft Wyong LEP 2012 is now complete. The next major milestone is submission of the plan along with supporting information to the DP&I requesting the plan be made, under Section 68 of the EP&A Act (as amended). It is anticipated that Council's Section 68 submission will be finalised in June 2013. The DP&I then review Council's submission and prepare a report to the Minister for Planning & Infrastructure under Section 69 of the EP&A Act (as amended). Draft Wyong LEP 2012 and draft Wyong DCP 2012 become effective when the LEP is published on the NSW Legislation website.

CONCLUSION

This report seeks Council's endorsement of draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012 which is proposed to be amended in accordance with the matters raised in this report and Enclosures.

This will enable a submission to be provided to the DP&I requesting that the Minister for Planning & Infrastructure make the draft Wyong LEP 2012. Gazettal (making) of the draft LEP will ensure that the current Wyong LEP 1991, gazetted nearly twenty two years ago, is replaced with a modernised and rationalised draft Wyong LEP 2012. Adoption of the draft LEP will provide one contemporary LEP for Wyong LGA, using standard land use zones and land use definitions.

The draft Wyong LEP 2012 is consistent with the *Standard Instrument – Local Environmental Plan* as well as DP&I Circulars and Practice Notes which have been published since September 2005. The preparation of draft Wyong LEP 2012 has also recognised the need for the new LEP for the LGA to be flexible and adaptable to future development opportunities, yet at the same time recognise the unique environmental values of the Shire to ensure conservation and protection of these values.

The draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012 were publicly exhibited from 9 January 2013 - 20 February 2013. This included a public hearing held on 2 April 2013. This report outlines the findings of the public exhibition period, details recommended amendments to draft Wyong LEP 2012, draft Settlement Strategy, and draft Wyong DCP 2012, and the next steps to finalise these documents.

3.8 Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 (contd)

ATTACHMENTS

- | | | | |
|----------|---|-----------|-----------|
| 1 | Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 - Category 1 Submissions received by 20 February 2013 | Enclosure | D03341888 |
| 2 | Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 - Category 2 Submissions received between 21 February - 12 April 2013 | Enclosure | D03341890 |
| 3 | Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 - Report on Public Hearing | Enclosure | D03341893 |
| 4 | Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 - Assessment of Land Reclassification Submissions | | D03344386 |
| 5 | Public Exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012 - Enclosure 5 - Central Coast Regional Airport | Enclosure | D03342175 |