

File No. 100/07  
Our Ref: RAP

27 June 2007

Dear Councillor

You are kindly requested to attend an **ORDINARY COUNCIL MEETING** of Wingecarribee Shire Council to be held in the Council Chambers, Elizabeth Street, Moss Vale on **Wednesday, 27 June 2007** commencing at **3.00 pm**.

Yours faithfully

Mike Hyde  
**General Manager**

3.00pm	Council meeting
	Open Council (Mayor vacates Chair)
	Nominated Councillor to Chair Open Committee
4.30pm	Mayor resumes Chair
5.30pm	Questions from the Public
7.15pm	Closed Council

# BUSINESS

1. OPENING OF THE MEETING
2. PRAYER – *Reverend Bob Thomas of Bowral Uniting Church*
3. PUBLIC FORUM
4. APOLOGIES
5. ADOPTION OF MINUTES OF ORDINARY MEETING *held Wednesday, 13 June 2007* and the Extraordinary Meeting *held Wednesday, 20 June 2007*
6. BUSINESS ARISING FROM THE MINUTES
7. DECLARATIONS OF INTEREST
8. MAYORAL MINUTE (*if any*)
9. OPEN COUNCIL *chaired by Clr L A C Whipper*
  - Visitor Matters
  - Environment and Planning
  - Corporate Services
  - Technical Services
10. MAYOR TO RESUME CHAIR AT 4.30PM
11. COUNCIL MATTERS
  - General Manager
  - Corporate Services
12. NOTICES OF MOTION
13. DELEGATES REPORTS
14. PETITIONS
15. QUESTIONS FROM THE PUBLIC
16. CORRESPONDENCE FOR ATTENTION
17. QUESTIONS WITH NOTICE
18. COMMITTEE REPORTS (*Tabled*)
19. COMMITTEE REPORTS (*Attached*)
20. GENERAL BUSINESS
21. CLOSED COUNCIL

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**EXTRAORDINARY MEETING OF COUNCIL**  
held in the Council Chamber, Civic Centre, Elizabeth St,  
Moss Vale on Wednesday, 27 June 2007



**DECLARATIONS OF INTEREST**

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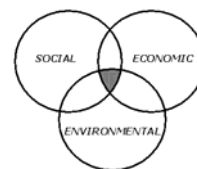
**DECLARATION OF INTEREST**

*101/3*

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Councillors are requested to declare any Pecuniary or Non Pecuniary Interests for items on the agenda.

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**OPEN COUNCIL**

**ENVIRONMENT & PLANNING DIVISION**

**o-EP1 Development Consents under Delegated Authority**

REF: DCM 5302

Submitting list of development consents executed under delegated authority of the Director of Environment and Planning between 5/6/07 and 20/6/07.

**RECOMMENDATION**

THAT the information relating to Development Consent Nos 1-6 under Delegated Authority be received and noted.

**Development Applications (DAs) Determined – 05/06/07 and 20/06/07  
(Excluding Small Lot Subdivisions and Domestic Applications)**

1	LUA07/0272	Lot 1 Sec 44 DP 1374, 14 Cavendish St, Mittagong	5 industrial units & demolition of existing buildings
2	LUA07/0202	Lot 1 DP 617915 'Throsby Manor', Throsby street, Moss Vale	Change of use, including minor additions
3	LUA07/0376	Lot 2 DP 708492, No 93 Main Street, Mittagong	Refurbishment of Bank
4	LUA07/0578	Lot 100 DP 1110034, 458 Argyle Street, Moss Vale	Real Estate Office
5	LUA07/0486	Lot 100 DP 1101279, 328-332 Bong Bong Street, Bowral	Contours ladies fitness & weight loss studio with signage
6	LUA07/0085	Lot 17 DP 1102698, No 20 Yarrowa Road, Moss Vale	28 unit motel



**o-EP2 List of Development Applications received by Council**

REF: DCM

5302

Submitting list of development applications which have been received between 1/6/07 and 18/6/07, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

**RECOMMENDATION**

THAT the information regarding the List of Land Use Applications Nos 1-13 received by Council be received and noted.

**SEE ATTACHED**



H – Heritage T – Traffic M – Master Plan E – Economic Devt En - Environment
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**Development Applications (DAs) Received –01/06/07 to 18/06/07  
(Excluding Small Lot Subdivisions and Domestic Applications)**

	Date Lodged	LUA Number	Legal Description	Property Address	Description	Works & Planning	Delegation	Committee Referrals
1	4/06/2007	LUA07/0568	Lot 2 DP 1104268	BOARDMAN ROAD, BOWRAL (Scottish Arms)	POPE		✓	
2	4/06/2007	LUA07/0569	Lot 22 DP 792646	KANGALOOON ROAD, GLENQUARRY (Bong Bong Racecourse)	Telstra Mobile Phone Base Station Facility 30m Pole & Equipment Hut	✓		
3	4/06/2007	LUA07/0570	Lot 6 DP 1018190	5 WEST PARADE, HILL TOP (old Post Office)	4 x Commercial / Retail Premises & Associated Car Parking		✓	
4	5/06/2007	LUA07/0573	Lots 1, 2 & 3 DP 813792	LOTS 1/3, WAVERLEY PARADE, MITTAGONG	Replacement existing school Library with new – 1 storey & mezzanine		✓	
5	5/06/2007	LUA07/0578	Lot 1 DP 194654 Part Lot 16 Sec 2 Lot 100 DP 1110034	458 ARGYLE STREET, MOSS VALE (cnr Railway Street – 2 <sup>nd</sup> from corner)	Real Estate Agent First Occupation		✓	
6	6/06/2007	LUA07/0579	Lot 2 DP 509911	COMMONWEALTH BANK, 99 MAIN ST, MITTAGONG (cnr Queen Street)	Alterations & Additions		✓	
7	6/06/2007	LUA07/0581	Lots 395 & 396 DP 751252	MEDWAY ROAD, MEDWAY	Proposed Stables / Garage / Horse Arena		✓	



**Development Applications (DAs) Received –01/06/07 to 18/06/07  
(Excluding Small Lot Subdivisions and Domestic Applications  
(Continued)**

	Date Lodged	LUA Number	Legal Description	Property Address	Description	Works & Planning	Delegation	Committee Referrals
8	7/06/2007	LUA07/0587	Lot 2 DP 1044772	WILLOW GRANGE, BERRIMA ROAD, MOSS VALE	6 x Lot Subdivision		✓	
9	8/06/2007	LUA07/0600	Lot 1 DP 795381 Lot 2 DP 795381	PRIMARY SCHOOL, SCHOOL LANE, EXETER	Netball Court / All purpose Court		✓	
10	8/06/2007	LUA07/0601	Lot 7 DP 1036900	CHERRYBANK, RANGE ROAD, GLENQUARRY	Demolition of unused structures		✓	
11	13/06/2007	LUA07/0609	Lot 6, 7, 8 Sec 5 DP 1289 ... plus 3 more land parcels	130 MAIN STREET, MITTAGONG (Woolworths supermarket)	Conversion into a Dan Murphy's Liquor Outlet + 2 Specialty Tenancies & Facade Improvements	✓		<b>M T E</b>
12	14/06/2007	LUA07/0613	Lot 1 DP 858843 (Highland Garages)	OLD HUME HIGHWAY, MITTAGONG	Aldi Store	✓		<b>M T E</b>
13	15/06/2007	LUA07/0616	Lot 1 DP 799595 Vol 3146 Fol 00456	29 BANKSIA STREET, BOWRAL	2 x Lot Strata Subdivision		✓	



**o-EP3 Funding Agreement from Department of Family and Community Services**

REF: SPM

7163; 1825/29.2

Advising Council of receipt of the funding agreement received from the Department of Family and Community Services and seeking Council's resolution to have the Council Seal affixed to the agreement.

**REPORT**

In June 2007, Council was forwarded a funding agreement which is required to have the Council seal affixed. The Agreement is in relation to the Wingecarribee Family Day Care Scheme operated through Council's Family Day Care Services. The agreement is for a total of \$65,715.69.

This funding is based on the formula which calculates daily actual averages of occupied places. This funding agreement is for July 2007 to June 2008. The payment schedule is 4 payments for July 2007 – September 2007 : October 2007 – December 2007 : January 2008 – March 2008 : April 2008 – June 2008. The department may adjust future payments if utilisation reports show increase or decrease in number of occupied places.

**MANAGEMENT PLAN ISSUES OR IMPLICATIONS**

The Family Day Program is a critical community service delivery under Council's Management Plan.

**BUDGET IMPLICATIONS**

This funding is an essential component of the total budget allocation for the operation of the Family Day Care Program under Council's Management Plan. Due to increased numbers of children enrolled the funding amount of \$65,715.69 is more than was projected for the 2007/8 Budget of \$57,200. The coordination unit is aware of the impact of actual averages of occupied places and are implementing strategies to increase carer numbers and child enrolments.

**ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

**(i) Environmental Factors**  
Not applicable

**(ii) Social Factors**  
The funding allows Council to continue providing the Family Day Care Service within the Shire which provides families and parents options for placing children in care whilst they seek employment.



**(iii) Economic Factors**

The funding provides support for Council to offer a cost effective service to the community

**ATTACHMENTS**

There are no attachments to this report.

**RECOMMENDATION**

THAT Council resolves to affix the Council seal to the Funding Agreement in relation to the Wingecarribee Family Day Care Scheme AND THAT the General Manager and Mayor sign the Agreement on behalf of Council.



**o-EP4 Conservation Management Strategy: Market Place Park, Berrima**

REF: SPM

5805; 5900; 6526

This report presents the Conservation Management Strategy (CMS) for Market Place Park Berrima, and recommends Council approval of the document and implementation subject to some amendments.

**REPORT**

**BACKGROUND**

Council offered funding some time ago to the Berrima Residents Association for the preparation of a Conservation Management Plan (CMP) for Market Place Park, Berrima. Concern had been raised regarding the state of the pine trees within the park, as some had died and been removed, others were dying or were dangerous and required immediate attention.

The BRA approached a number of different consultants some of which did not reply, whilst others advised that the funding was insufficient for the task. Council's Heritage Advisor was then requested to prepare a Conservation Management Strategy.

Council's Heritage Advisor has completed the study and the Heritage Committee has supported the document subject to the amendments that have been made since in consultation with the committee (**Attachment 1**).

**STRATEGY RECOMMENDATIONS**

The strategy initially provided a small statement of significance for the park and its relationship with the village and recommended the replacement of the Radiata pines with a dense planting of other pine species including Douglas Firs and Wollemi Pines. This dense planting was later to be thinned as a part of the strategy. The Strategy contained an arborists report identifying all existing trees and categorizing the state of these trees and providing management recommendations.

The Strategy was referred to the Heritage Committee and Landscape Committees which both provided comments and suggestions, resulting in the document being amended. Council's Heritage Advisor has also independently consulted with the Berrima Residents Association. The main issues raised in Council Committee's were:

- That the statement of significance was too weak and that it did not adequately address the importance of the park in relation with the village as a whole.
- View lines within the park and across the park etc were not considered.
- The introduction of untested species of plants into a relatively harsh landscape.
- The emphasis on vegetation rather than dealing with all the structures in the park.
- It was unclear whether the strategy was intending to conserve the existing character of the park or advocating change. That existing dominant species have thrived up until relatively recently with little or no attention, therefore, they should be reused.
- That the strategy contained a number of inaccurate historical statements.

The Strategy has therefore, been amended in light of these comments. Essentially, the plan is to retain the existing character of the park (and its relationship with the village) by replacement planting of trees with pines species already found within the park including, Radiata Pine, Stone Pine and Maritime Pine. The statement of significance has been expanded and the role of the park within Berrima elaborated upon. Consideration has also been made of view lines between buildings adjoining the park and significant vistas. The Strategy relates more to the vegetation in the park than the structures, therefore a statement to this effect has been included at the beginning of the document.

The amended plan was referred back to the Heritage Committee on 4 December, 5 February and 23 March, 2007. The Committee resolved to support the amended document at its meeting on 23 March, 2007.

#### Implementation

Once the Strategy has been adopted by Council it will be provided to the Parks and Property Branch for implementation, however, there is no budget at this stage for any of the work proposed.

The plan contains a conservation policy for the park as follows

	<b>Aspects for Conservation &amp; Interpretation</b>	<b>Explanation and conservation policies</b>
1	<b>Order of priorities</b>	<p>The scope of possible conservation and interpretation works covers a wide spectrum. Important features for stopover motorists are the size and age of the trees, the views across to historic buildings, the attractive open grassed picnic area and a toilet facility. Without establishing an order of priority for the works, there are a multitude of possible approaches, likely to result in delays and inconsistent treatments. Without site integrity, all other attempts at conservation would be pointless.</p> <p>Policy 1.1 <i>The order of priorities in works relating to the site shall be:</i></p> <ol style="list-style-type: none"> <li>1. <i>Protect site integrity.</i></li> <li>2. <i>Enhance public safety.</i></li> <li>3. <i>Produce highly visible works to promote public appreciation and visitation.</i></li> </ol>



<p><b>2</b></p>	<p><b>Conserving public safety and site integrity</b></p> <p><b>Historic tree management</b></p>	<p>The site has a large number of trees of various species, ages, and condition. Periodic inspection is required by a qualified arborist who should prepare a written report, identifying a particular tree if tree surgery is necessary.</p> <p>Policy 2.1 <i>Works to make the trees safe to the public should be done first.</i></p> <p>Policy 2.2 <i>Periodic inspection is required by a qualified arborist who should prepare a written report, identifying a particular tree if tree surgery is necessary.</i></p> <p>Policy 2.3 <i>Under no circumstances is any other part of any tree to be disturbed, other than that identified in the arborist's report.</i></p>
<p><b>3</b></p>	<p><b>New tree plantings</b></p>	<p>Recent decades have seen a randomised pattern of tree removal and experimental re-planting. Policies for tree removal and re-planting should be staged and should follow a coherent plan. If there is a perceived need not to follow the plan in any way, then the plan should be revised, advertised for comment and approved by Council before any such design change is undertaken.</p> <p>Policy 3.1 <i>A program of supervised removal and replanting needs to be established as part of the core maintenance program for Council's parks and gardens.</i></p> <p>Policy 3.2 <i>The plan attached to this strategy must be followed. Once adopted, this plan can only be varied following public exhibition and Council approval.</i></p>
<p><b>4</b></p>	<p><b>Interpretive signage</b></p>	<p>Much of the Market place and Berrima generally, has been "plaqued", so plaques are generally discouraged, except where used to interpret relics such as the tennis shelter and historical tree plantings. The main park sign should conform to other signs in the vicinity. One other interpretive sign, containing old photographs of the Market Place, may be placed at some suitable park viewing or entry point.</p> <p>Policy 4.1 <i>Small bronze plaques no larger than 200mm wide x 100mm high, may only be used to interpret individual relics, such as the tennis shelter. Similar sized tree plaques may be used to note the history and species of selected trees. Additional plaques should not be installed unless recommended by the heritage adviser.</i></p> <p>Policy 4.2 <i>The main park sign should conform to the black and gold coloured signs used elsewhere in Berrima, and should note a story of origin of Berrima Market Place.</i></p> <p>Policy 4.3 <i>A maximum of one coloured metal interpretive sign, with photographs, may be installed, to a size and location recommended by the heritage adviser.</i></p>

<p><b>4</b></p>	<p><b>Interpretive signage</b></p>	<p>Much of the Market place and Berrima generally, has been “plaqued”, so plaques are generally discouraged, except where used to interpret relics such as the tennis shelter and historical tree plantings. The main park sign should conform to other signs in the vicinity. One other interpretive sign, containing old photographs of the Market Place, may be placed at some suitable park viewing or entry point.</p> <p>Policy 4.1 Small bronze plaques no larger than 200mm wide x 100mm high, may only be used to interpret individual relics, such as the tennis shelter. Similar sized tree plaques may be used to note the history and species of selected trees. Additional plaques should not be installed unless recommended by the heritage adviser.</p> <p>Policy 4.2 The main park sign should conform to the black and gold coloured signs used elsewhere in Berrima, and should note a story of origin of Berrima Market Place.</p> <p>Policy 4.3 A maximum of one coloured metal interpretive sign, with photographs, may be installed, to a size and location recommended by the heritage adviser.</p>
<p><b>5</b></p>	<p><b>Access to this plan</b></p>	<p>A common fate of commissioned plans that of becoming unknown, inaccessible or lost. This plan should be available for staff and the public.</p> <p>Policy 12.1 This plan should go on public display at the Shire Library.</p> <p>Policy 12.2 This plan, or an extract of it, should be posted on the Council web-site.</p>

**Parks & Property Manager’s Comments**

*The pine trees in the Berrima precedent have reached their optimum life expectancy. Pinus Radiata, in particular, starts to decline after 100 years even in ideal conditions. This has not been considered in the report by Kim Wells and Jim Maity. While drought and lack of maintenance in recent years have also affected the condition of the trees, the other significant consideration is the increased usage of Berrima and the Park.*

*This increased usage has been detrimental to the trees through compaction which has resulted in lack of oxygen to the root zones and decreased water absorption.*

*A Plan of Management is required which considers all factors identified in the Conservation Management Strategy, as well as a detailed Landscape Master Plan for the Berrima Market Place.*

*There is currently no funding for this project and it is recommended that the strategy’s suggestions cannot be implemented until the Plans of Management and Master Plan are in place.*



*Until a Plan of Management and Master Plan are developed Council has a duty of care to remove dangerous trees where needed and at times with very short notice. There has been a perception that recent tree removals have been unplanned and ad hoc. However, Council staff are continually monitoring the condition of the trees and works are actioned as necessary.*

*Policy 2.3 of the Plan refers to not disturbing trees other than identified in the arborist report. This statement is inaccurate and not practicable. The condition of trees can change with little or no warning and where a risk is present action must be taken. Council has highly qualified staff that are in a position to make these assessments and take action to ensure public safety.*

#### MANAGEMENT PLAN ISSUES OR IMPLICATIONS

There are no management plan issues or implications.

#### POLICY IMPLICATIONS

There are no policy implications with regard to this document. It should be noted that currently there is no Plan of Management under the *Local Government Act* (LGA) for the park. The Parks and Property Manager has recommended that the plan be held in abeyance until both a Master Plan and a Plan of Management (as required by the LGA) are prepared.

#### BUDGET IMPLICATIONS

Currently there is no budget to carry out the actions in the strategy.

#### ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

**(i) Environmental Factors**

The main issue with regard to the park is that the pines have reached maturity and are now dying off. This poses threats to safety, management and aesthetics of the park. Since the park is heritage listed and within the Berrima Conservation Area, there is added significance to the appropriate management and handling of the situation. The CMS seeks to address these issues. It is noted that radiate pines are an environmental weed within Wingecarribee Shire, however, given the historical use of the trees within the park and their proven resilience, that the continued perimeter planting of such trees is appropriate under the circumstances.

**(ii) Social Factors**

The Park is the central feature of Berrima and apart from its historical associations is used for memorial services, Australia Day activities and by passing motorists, picnickers and as a children's play area. It is important that the park be appropriately managed for all users.

**(iii) Economic Factors**

There are no broader economic implications as a result of this CMS.



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## CONCLUSION

In conclusion, the strategy provides a framework for the ongoing management of Market Place Park. It is recommended that Council adopt the strategy in order to ensure the future management of the park is undertaken in accordance with a strategy that has assessed and considered the park's heritage and cultural values. It is also recommended that a Plan of Management and Master Plan be prepared for the Park and that a budget is provided to undertake the necessary ongoing work.

## ATTACHMENTS

There is one attachment to this report – *Conservation Management Strategy: Market Place Park, Berrima*, which has been circulated separately.

## RECOMMENDATION

1. THAT Council adopts the Conservation Management Strategy: Market Place Park, Berrima and pursues options for budget funding for the actions outlined within the strategy.
  2. THAT the statement “*under no circumstance is any other part of any tree to be disturbed other than identified in the arborist report*” in Policy 2.3 be amended to allow for emergencies and staff action without an arborist report.
-

**o-EP5 2007/2008 Wingecarribee Community Assistance Scheme**

REF: SPM

1870/2007

Submitting for Council's consideration the final recommendations for financial assistance by the Community Assistance Committee under the 2007/2008 Community Assistance Scheme.

**REPORT**

**BACKGROUND**

This year, Council received **80** applications seeking funding under the 2006/2007 Wingecarribee Community Assistance Scheme, in the following categories:

Category	No of applications	Amount Requested
ARTS & CULTURE	17 applications (13 grants, 4 donations)	\$36,820.52
COMMUNITY SERVICES	29 applications (24 grants, 5 donations)	\$77,768.79
SPORT & RECREATION	9 applications (7 grants, 2 donations)	\$28,686.07
MISCELLANEOUS	15 applications (12 grants, 3 donations)	\$42,515.91
INELIGIBLE	6 applications (5 grants, 1 donation)	\$47,690.85
<b>TOTAL</b>	<b>80 applications (65 grants, 15 donations)</b>	<b>\$233,482.14</b>

Council's annual funding for the scheme is \$100,000 and is awarded to local non-profit organisations for the purpose of implementing and improving community-based projects within our Shire. In addition to the annual funding, this year there was an amount of \$4,017 in unspent funds from 2005/6 and an amount of \$18,445.31 unallocated from 2006/7 making a total of \$122,462.31 potentially available for allocation in 2007/8.

There was a significant increase in the number of applications compared to last year (up from 48 in 2006/7). There was also an increase in the number of organisations submitting more than application e.g. for a grant and a donation. The Committee has made a number of recommendations concerning amendments to guidelines for 2007/8 including limiting applications to one per organisation of any type.

There were also a number of applications relating to websites and data projectors. The Committee recommended that slippage funds be used to fund a Shire wide approach to assisting the community with these resources – see proposal below.



## PROCESS

This year the Grants scheme opened on 7<sup>th</sup> February 2007 and closed 30 March 2007, allowing seven (7) weeks for potential applicants to prepare and submit their proposals.

During the opening period of the scheme, the following process was undertaken:

- (a) Two Information Sessions were conducted for potential applicants to provide an outline of the scheme and process of evaluation; and
- (b) Potential applicants were assisted by relevant Council staff by phone or in person.

Following the closing date, the following process was undertaken:

- (c) Initial process of evaluation was conducted, beginning with the initial culling of 'Not Eligible' applications according to the guidelines of the scheme;
- (d) Research was undertaken by Council staff to assist the peak committees and the Community Assistance Committee in their deliberations;
- (e) Second stage of the evaluation process was then conducted by each of the peak committees of Council, namely: the Arts and Culture Board, Community Services Consultative Committee and the Sport and Recreation Council at special meetings of these Committees held in April/May 2007. The applications relating to Council or privately owned facilities or open space were referred to a special meeting of relevant Council staff, also held in May 2007;
- (f) The Community Assistance Committee then met on 14 May and 30 May 2007, to conduct the final overall evaluation of all applications, making reference to the recommendations from the specialised committees. Final results are detailed in the document presented with this report, which for confidentiality purposes, has been circulated **under separate cover**.

## SUCCESSFUL APPLICANTS

The Community Assistance Committee recommends funding to **53** applicants, for a total amount of **\$109,043.02**.

Category	No of applications	Amount Recommended
ARTS & CULTURE	15 applications (11 grants, 4 donations)	\$26,290.77
COMMUNITY SERVICES	21 applications (17 grants, 4 donations)	\$40,752.25
SPORT & RECREATION	6 applications (5 grants, 1 donation)	\$18,500.00
MISCELLANEOUS	11 applications (9 grants, 2 donations)	\$23,500.00
<b>TOTAL</b>	<b>53 applications (42 grants, 11 donations)</b>	<b>\$109,043.02</b>



The list detailing the Community Assistance Committee's final recommendations (applications ranked High, Medium High and Medium and recommended for funding) including level of funding, project purpose and conditions of funding has been circulated under separate cover and is referred for Council's consideration and adoption.

#### DATA PROJECTORS AND WEBSITES

The Community Service Consultative Committee and Arts and Culture Board reviewed a number of applications relating to the purchase of data projectors and websites. Resolutions from both of these committees were considered by the Community Assistance Committee as follows –

CSCC Recommendation –

***THAT an amount of \$9000 be put aside from Community Assistance Scheme funds for purchase of data projectors and screens for Hill Top Community Centre, Bundanoon Hall and the Henrietta Rose Room so that this equipment is accessible across the Shire.***

ACB Recommendations –

***1) THAT the Arts and Culture Board supports the recommendation of the Community Services Consultative Committee (as above)***

***2) and further THAT a replacement program for data projectors in community centres be implemented with the program to include projectors in Council-managed community centres as well as the projector in the Community Technology Centre @Robertson***

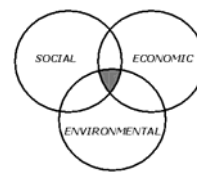
***3) THAT an amount be set aside from the Community Assistance Scheme funds to develop a co-operative approach to websites for community organisations.***

It was resolved to support these recommendations and to allocate slippage funds to these two projects (approximately \$8900 towards the data projector proposal and \$4500 towards the website project).

These recommendations are referred to Council for consideration and adoption.

#### Summary of recommended amounts

Grants and donations as per rankings	\$109,043
Data projectors	\$ 8,900
Website project	\$ 4,500
TOTAL	\$122,443 (funds available including
slippage = \$122,462.31+small amount of unspent funds from 2006/7 projects)	



### ALTERATIONS TO GUIDELINES FOR 2008/9 COMMUNITY ASSISTANCE SCHEME

The Committee considered a number of issues that arose in relation to Scheme guidelines and made recommendations in regards to altering the guidelines for the 2008/9 Scheme as below –

- Shipping containers – they are a cheap option for storage but generally not approved for reasons of aesthetics. Are there any other options available for groups needed storage solutions? What is the policy? – **that the DEP be requested to develop a recommendation to Council re approval of shipping containers on Council land.**
- Tennis courts – what is the maintenance plan for tennis courts if not funded from the Scheme? – **that this be part of Infrastructure Renewal Strategy – applicants to be advised**
- Use of IRS funds for sporting facilities – **this should be advised to applicants**
- Data projectors/websites – see resolution from committees, need to clarify in guidelines – **that these are generally ineligible and that this be clarified in guidelines and highlighted at community briefings.**
- Number of applications each organisation can submit – should it be limited to one application only whether it is for grant or donation i.e. only one application to the Scheme from each organisation? – **that only one application of any type be accepted from any organisation**
- Non-functioning/operating organisations – to be confirmed as ineligible in guidelines – **that organisations must demonstrate sustainability to be eligible**
- Referees – specify that referees cannot be members of the management committee or the contractors funded by the application – **include this in guidelines**
- Leased buildings – clarify whether organisations leasing buildings from Council can apply for building maintenance projects or projects involving permanent fixtures – **that eligibility will depend on what is included as a Council responsibility in lease agreements.**

### UNSPENT FUNDING FROM 2006/2007 COMMUNITY ASSISTANCE SCHEME

It is a condition of the scheme that funds be spent within 12 months, ie by 30 June 2007. Reminders (in December, February and June 2007) have been forwarded to those recipients who had not completed their projects by 6 June 2007. Organisations have been assisted in the claiming of unspent funds.

### NOTIFICATION AND OFFICIAL PRESENTATION

Subject to the adoption of this report by Council, notification will be forwarded to both successful and unsuccessful applicants advising them of the outcome.

The Official Presentation of the Certificate of Entitlements will be held during Local Government Week activities, scheduled to take place on Wednesday 1 August 2007. Therefore funds will become available from 2 August 2007.



Information packages including instructions on how to claim for the funds will be posted to the successful applicants, together with an invitation to the Official Presentation immediately following Council's approval.

Due to the success of the previous year's testimonials of past recipients, it is proposed that a similar event be organised with different presenters who have successfully completed projects funded by this scheme. It is an opportunity to promote their projects and acknowledge Council. It also lets Councillors, staff and members of the community know how Council's money is being spent in the community.

#### BUDGET IMPLICATIONS

Wingecarribee Community Grants funding allocation for 2007/2008 of \$100,000.  
Carry over of unspent funds from 2005/6 (currently in 2006/7 budget) of \$4,017 to 2007/8 budget. Carry over of unallocated and unspent funds from 2006/7 of \$18,445.31+ to 2007/8 budget.

#### ATTACHMENTS

There is one attachment to this report (Community Assistance Committee Recommendations spreadsheet) which has been circulated under **Confidential cover** to Councillors.

#### RECOMMENDATION

1. THAT Council adopts the recommendations of the 2007 Community Assistance Committee as detailed in Attachment 1 circulated under separate cover.
2. THAT successful applicants be invited to attend a formal presentation to receive Certificates of Entitlement AND THAT this presentation ceremony be conducted during Local Government Week proposed for Wednesday 1 August 2007 commencing at 5.30pm in the Moss Vale Theatre.
3. THAT correspondence be forwarded to the unsuccessful applicants regrettably advising them of the outcome.
4. THAT unspent funds from 2005/6 and unallocated/unspent funds from 2006/7 be rolled over to the 2007/8 budget to be used to make up the shortfall for recommended 2007/8 Community Assistance Scheme applications and to fund a Shire wide approach to providing data projectors and websites as per recommendation of Community Assistance Committee
5. THAT recommendations of the Community Assistance Committee re alterations to 2008/9 Community Assistance Scheme Guidelines be approved.

**o-EP6 Amended S.94 Plan for Recreation - Adoption**

REF: SPM

5701/5

This report considers the adoption of the proposed amendment to the recently adopted s.94 Plan for Open Space and Recreation which reduces the contribution rate for Hill Top and Mittagong and corrects an omission to the works program. It also confirms Council's decision to transfer previous plan funds to the current accounts.

**REPORT**

**BACKGROUND**

Council adopted the s.94 Plan for Open Space and Recreation on 14 March 2007 and resolved to consider a further report of phasing in contributions rates for Mittagong and Hill Top.

Council considered a further report on 26 April 2007 and resolved:

*THAT Council exhibits the proposed amendments to the Recreation s.94 plan that reduces the contributions rates for Mittagong to \$4,191, and Hill Top to \$3,727.*

*THAT a report be prepared that considers any submissions received during the exhibition process for Council's consideration to adopt the amended S.94 plan.'*

**REPORT**

The draft amendment was exhibited from 16 May to 13 June 2007 and no submissions were received.

The proposal to reduce the contributions rates for Mittagong from \$4,935 to \$4,191, and Hill Top from \$5,277 to \$3,727 will have financial impacts which are discussed under.

Financial impacts – The reduction in the contribution rate in Mittagong by \$744 results in Council increasing its funding by \$93,000 for the Mittagong Precinct. Similarly for the Hill Top precinct, by reducing the rate by \$1,500 results in Council increasing its funding by \$30,000 for the Hill Top Precinct.

**Works Program**

The report to Council in March 2007 omitted two works items from works program which are part of the adopted s.94 plan, being:

Year Provided	Location	Proposed Works	Estimated Cost	
			S.94	Council
2007/08	Mittagong	Upgrade Ovals and Amenities in Mittagong and Welby	\$20,000	\$20,000
2008/09	Moss Vale	Upgrade Church Road Fields including tree removal, landscaping, car parking expansion and seating.	\$103,000	\$51,500

These works were also exhibited and no submissions were received on this matter.

#### Existing Funds

The report to Council to adopt the s.94 plan on 14 March this year discussed the issue of expending previous plan funds. See extract of the report of 14 March 2007 under:

*The preparation of the plan included a specific focus on the need to expend previous plan funds, being funds held in plan prior to 1993. It is important that these funds are expended as a priority to ensure Council meets its legal obligation under the Environmental Planning and Assessment Act.*

*Council currently holds \$406,847 in previous plan developer contributions for recreation purposes. It is proposed to transfer these funds across to the current (post 1993) funds to enable better budgeting and expenditure monitoring of s.94 funds.*

Unfortunately, the recommendations of that 14 March report did not include a specific resolution to undertake the suggested transfer of funds. A formal resolution is required to action finances held in trust funds. The recommendations of this report formalise this action to enable it to occur.

Specific details of the proposed transfer of funds are shown under (funds as at February 2007):

From Previous Plan Account – Precinct details	To current plan account – Precinct details	Amount (including interest)
Precinct 1 – Bowral/Berrima & Oxley Hill	Precinct 1 - Bowral	\$56,089.33
Precinct 2 – East Bowral	Precinct 3 – East Bowral	\$1,112.92
Precinct 3 – Moss Vale, New Berrima, Meryla, Werai & Sutton Forrest	Precinct 6 – Moss Vale	\$63,327.14
Precinct 4 – Exeter, Bundanoon, Penrose & Wingello	Precinct 7 – Bundanoon	\$10,512.97
Precinct 5 – Robertson, Burrawang, Glen Quarry, Kangaloon & Avoca	Precinct 8 - Robertson	\$210,081.87
Precinct 6 – Mittagong & Welby	Precinct 4 – Mittagong	\$8,587.57
Precinct 7 – Alpine, Colo Vale, Aylmerton & Braemar	Precinct 10 – Colo Vale	\$45,313.73

Precinct 8 – Hill Top & Balmoral	Precinct 9 – Hill Top	\$719.85
Precinct 9 – Rural	Shirewide Recreation	\$1,875.40
	<b>TOTAL</b>	<b>\$397,620.78</b>

Please note that Council previously resolved to allocate \$15,000 from the Bowral/Berrima and \$15,000 from the Moss Vale/New Berrima previous plan precincts for a gravel pathway linking the towns. This amount of \$30,000 will be the only funds left for open space and recreation purposes following this transfer.

Following this action, there will be around \$153,000 left in previous plan funds being, \$30,000 in Recreation (Berrima to New Berrima track) \$63,055 in Community Facilities and \$59,680 in Drainage.

#### MANAGEMENT PLAN IMPLICATIONS

The works program corrections are the only management plan implications for this proposed amendment.

#### ATTACHMENTS

There is one attachment to this report, being the previous report to Council 26 April 2007.

#### RECOMMENDATIONS

1. THAT Council adopts the amendment to the s.94 Plan for Open Space and Recreation to reduce the contribution rates for Mittagong to \$4,191, and Hill Top to \$3,727.
2. THAT Council transfers funds from its previous developer contribution plans trust fund to its current plan trust fund as detailed below AND THAT any interest earned in these accounts also be transferred across to the relevant current plan trust funds:

From Previous Plan Account – Precinct details	To current plan account – Precinct details	Amount (including interest)
Precinct 1 – Bowral/Berrima & Oxley Hill	Precinct 1 - Bowral	\$56,089.33
Precinct 2 – East Bowral	Precinct 3 – East Bowral	\$1,112.92
Precinct 3 – Moss Vale, New Berrima, Meryla, Werai & Sutton Forrest	Precinct 6 – Moss Vale	\$63,327.14
Precinct 4 – Exeter, Bundanoon, Penrose & Wingello	Precinct 7 – Bundanoon	\$10,512.97
Precinct 5 – Robertson, Burrawang, Glen Quarry, Kangaloon & Avoca	Precinct 8 - Robertson	\$210,081.87
Precinct 6 – Mittagong & Welby	Precinct 4 – Mittagong	\$8,587.57
Precinct 7 – Alpine, Colo Vale, Aylmerton & Braemar	Precinct 10 – Colo Vale	\$45,313.73
Precinct 8 – Hill Top & Balmoral	Precinct 9 – Hill Top	\$719.85
Precinct 9 – Rural	Shirewide Recreation	\$1,875.40
	<b>TOTAL</b>	<b>\$397,620.78</b>



**o-EP7 Inquiry into the NSW Southern Coalfields**

REF: MSP

5606

Advising Council of the Inquiry into the NSW Southern Coalfields and agreeing to make a formal submission to the Independent Expert Panel

**REPORT**

Over recent years there has been much publicity over the impacts of coal mining under river beds causing cracking and subsequent river water loss. In response the Department of Planning is inviting submissions to be made to the NSW Government's Independent Expert Panel Inquiry into the NSW Southern Coalfields.

The Inquiry is quite specific and spelt out in the terms of reference which are as follows:

1. Undertake a strategic review of the impacts of underground mining in the Southern Coalfields on significant natural features (ie rivers and significant streams, swamps and cliff lines) with particular emphasis on risks to water flows, water quality and aquatic ecosystems; and
2. Provide advice on best practice in regard to:
  - a) assessment of subsidence impacts
  - b) avoiding and/or minimising adverse impacts on significant natural features; and
  - c) management, monitoring and remediation of subsidence and subsidence related impacts; and
3. Report on the social and economic significance to the region and the State of the coal resources in the Southern Coalfields.

Panel members are Prof Bruce Hebblewhite (Chair, Subsidence Expert), Emeritus Prof Jim Galvin ( Subsidence Expert), Mr Col Mackie (Groundwater Expert), Assoc Prof Ron West (Aquatic Ecologist) and Mr Drew Collins (Economist).

The terms of reference focus on an examination of the subsidence-related impacts of underground mining on "significant features". These features are defined within the terms of reference. Other natural features, for example plains, plateaus and general landforms, and any impacts of subsidence on infrastructure assets or buildings or structures are not within the panel's term of reference.

All values associated with rivers and significant streams, swamps and cliff lines are covered by the terms of reference. This includes Aboriginal Heritage, non Aboriginal heritage, conservation, scenic, recreational and similar values, so long as they are directly associated with these features. In considering impacts on rivers, significant streams and swamps, the panel has been asked to place particular emphasis on "risks to water flows, water quality and aquatic ecosystems".



Submissions are to be submitted by 30 July 2007 which will be followed by public hearings in the week commencing 17 September 2007. The Inquiry was also discussed at the Environment Committee Meeting held on 20 June 2007.

#### BUDGET IMPLICATIONS

There are no budget implications to Council preparing a submission

#### ATTACHMENTS

There are no attachments to this report.

#### RECOMMENDATION

THAT Council makes a submission to the Expert Independent Panel on the Inquiry into the NSW Southern Coalfields.



**o-EP8 Update on Shire-wide LEP**

REF: SPM 5900

The purpose of this report is to seek Council endorsement on further 'policy' changes to the Draft Shire Wide LEP which stem from comments returned to Council from the Department of Planning.

**REPORT**

Agreed changes to the draft Shire-wide LEP were confirmed at the LEP Steering Committee meeting on 20 June 2007. These amendments will be made to the draft LEP and resubmitted to the Department.

A total of 8 further changes have been made:

- i) Change the areas zoned B3 Commercial Core to Zone B2 Local Centre. No land in the shire will be zoned B3 Commercial Core.
- ii) Zone certain land in the Moss Vale Industrial Corridor to Zone IN3 Heavy Industry
- iii) Include Sex Services Premises under the Draft Plan.
- iv) Delete Clause 38C Investigation Areas.
- v) Prohibit group homes in RU1 Primary Production, RU2 Rural Landscape, E3 Environmental Management, E4 Environmental Living zones.
- vi) Delete multi dwelling housing as a permissible use in the R2 Low Density Residential Zone and amend Clause 19B accordingly.
- vii) Merge the R3 Medium Density Residential and R4 High Density Residential zones and not have R4 zone anywhere. Make residential flat buildings permissible in the R3 zone.
- viii) Retain Industrial zoning over land along Old Hume Highway Braemar and rural zoning over Braemar Garden World.

It is noted that a number of other drafting changes are to be made to the draft Plan, however, it is noted that these changes do not involve policy matters already agreed to by Council.

**ATTACHMENTS**

There are no attachments to this report.

**RECOMMENDATIONS**

THAT Council adopts the changes to the draft Shire-wide LEP as outlined in this report and resubmits the Draft LEP back to the Department of Planning.

**o-EP9 Proposed 14 cluster houses at Loftus Street, Bowral**

REF: DCM

LUA06/0123

Reporting further on proposed 14 cluster houses at Lot 24 DP 713573 Loftus Street, Bowral.

**REPORT**

Council at its meeting of 23 May 2007 considered LUA06/0123 which proposed a 14 cluster house development at Lot 24 DP 713573 Loftus Street, Bowral.

Council resolved:

*'THAT this matter be deferred to allow further negotiation to be entered into with the developer regarding access off Loftus Street, the potential sale of Meryla Road (allowing pedestrian access) AND THAT water storage on site be increased.*

*THAT the situation regarding the traffic problems for Mt Eymard residents be addressed.*

*THAT consideration be given to the construction of a pedestrian refuge to service Mt Eymard residents.'*

The above issues have been discussed with the applicant, and the applicant's response letter forms **Attachment 1** to this report.

**(a) Access off Loftus Street**

The applicant states:

*'As we have pointed out on many occasions in our application, Loftus Street is unsuitable as an access to the site. There is currently an estimated 8m<sup>3</sup> of stormwater which has been allowed in the design of the stormwater swale running around the eastern and northern sides of the site which enters via Loftus Street in a storm event.*

*We understand that this quantity (8m<sup>3</sup>) represents a depth across Loftus Street of 300mm to 500mm. It is simply impractical to suggest that this is an appropriate means of accessing the development site. Other reasons why Loftus Street is unsuitable are as follows:*

- *Residents accessing the site through industrially zoned land;*
- *Conflict between industrial uses and residential (trucks and cars);*
- *Increasing congestion at the Alcorn Street – Moss Vale Road intersection;*
- *Inappropriate entrance to a quality residential development;*
- *Excluding the residentially zoned land from the residential precinct fronting Moss Vale Road.'*



COMMENT: It is accepted that the most practical access to the site is via Meryla Street. With the previous 13 lot subdivision which was refused by the Land & Environment Court, Council's preference for access to the site via Loftus Street was not supported by the Land & Environment Court. The judgement stated:-

*'.....the proposal does not generate significant traffic movements and those generated can be reasonably controlled by way of extension of Meryla Road, resulting in acceptable levels of environmental road capacity and amenity for the adjoining neighbours. I do not consider it reasonable to reject the application on grounds of inadequate access.'*

**(b) Potential sale of Meryla Road (allowing pedestrian access)**

The applicant states:

*'Despite Loftus Street being totally inappropriate as an access to the site, Meryla Road should remain in Council's ownership for the following reasons:*

- *The residentially zoned land is developable under the constraints of Council's Development Control Plans in a manner for which it is currently zoned.*
- *This residentially zoned land has a right of access and there is no constraint on the unmade road preventing its development.*
- *Given the inappropriateness of Loftus Street, Meryla Road is the logical entrance to the site.*
- *The past Land & Environment Court hearing determined that Meryla Road was a suitable access route to the site and that the intersection with Moss Vale Road could be upgraded accordingly and that the traffic impacts on Moss Vale Road given the small (14) number of dwellings proposed was negligible.*
- *Adjacent residents currently obtain access from the unmade Meryla Road.*
- *We understand that the procedure for selling an unmade road gives priority to the existing adjacent residential lots. Council does not have the right to insist that ownership of the road is given to one particular owner (Council road reserves are effectively public owned).*
- *The development entails the construction to Council's standards of the road and its drainage verge design, etc. From an ongoing cost perspective, Council's long term commitment to maintaining Meryla Road will be minimal at best. Once completed, Meryla Road will represent a negligible fraction of the vast extent of Council's road network. To suggest that its maintenance costs will be onerous on Council is grossly exaggerating this impact.*
- *Our client receives no benefit from the purchase of Meryla Road in terms of increasing the viability of the development by additional dwelling numbers. Its purchase is simply a capital expense and is unreasonable to enforce.'*

COMMENT: In addition to the applicant's above concerns, Council's Property Legal Officer advises that none of the three adjoining properties to Meryla Street have a greater right to purchase Meryla Street than the other properties and that 'the Roads Act 1993 No 33 sets out that once the notice closing the public road is published the road ceases to be a public road and the rights of access that may have existed are extinguished. The land then vests in Council as operational land and can be disposed of by sale. With three adjoining owners it would be best to invite Expressions of Interest for a sale and then negotiate from there. That gives each of the owners equal opportunity to make an offer.'



**(c) Water Storage on site be increased**

The applicant states:

*'The original proposal had communal water tanks located under BBQ areas to be shared by all residents in the provision of irrigation for landscaped areas. There is no reason why this proposal needs to change. There is ample space available in the shared communal landscaped space at the centre of the site for the provision of a well sized inground concrete stormwater tank which can be used for irrigation purposes throughout the site. It is our suggestion that this is a preferable alternative to enlarging the individual tanks at each dwelling as it maximises landscaped open space around each dwelling and prevents obstruction of windows, etc.'*

COMMENT: An enlarged central inground stormwater tank to be used for irrigation of shared communal landscaped area is considered acceptable, and is included in the attached draft conditions of consent (**Attachment 2**).

**(d) Traffic Problems for Mt Eymard residents to be addressed**

i) Bus stop location and user numbers.

The applicant states:

*'We have received confirmation from Berrima Bus Lines that the average number of passengers using the bus stop currently located on Meryla Street is 30 per week. This equates to a total of 4-5 passengers per day and probably equivalent to around 1 person every 2-3 daylight hours.'*

*Assuming there is a reasonably high proportion of these users who are elderly and cross Moss Vale Road from Mt Eymard to use the bus service, the current proposal requires these users to walk a further 100 metres to the south along a footpath to be provided by the developer to the relocated bus shelter just to the north of the Oxley View Motel.*

*It has been suggested that this additional distance away from the existing bus shelter is onerous on Mt Eymard residents. These elderly residents currently need to be sufficiently able bodied to walk from their own dwellings to Moss Vale Road (which in the case of the rear dwellings at the eastern boundary of Mt Eymard is more than 300 metres from Moss Vale Road). These residents then are required to cross what is a potentially dangerous and busy road without any form of pedestrian protection (island). Once they have caught the bus they undertake errands by foot before returning to Mt Eymard and negotiating an uphill walk back to their dwellings (again 300 metres to the easterly dwellings).*

*In light of all of this, relocating the bus stop 100 metres to the south onto an existing disused road reserve is a minor concession to be made, particularly when the impact of a bus stop in front adjacent residences is an impost to be avoided if possible.*



*The relocation of the bus shelter from the unmade Meryla Road to the unmade road reserve adjacent to the Oxley View Motel represents the status quo as far as impact on adjacent properties is concerned and is a reasonable proposition in our view. Moss Vale Road can easily be widened to accommodate the relocated bus shelter in the proposed location without impacting on the amenity of adjacent owners.'*

COMMENT: With the average number of bus passengers from Mt Eymard being 4-5 passengers per day, the proposed bus stop location combined with the pedestrian island, is considered acceptable.

ii Intersection Upgrade

The applicant states:

*'It has been suggested that a 'left turn in, left turn out' arrangement to the site via Moss Vale Road onto Meryla Road is an appropriate constraint on the development and will increase safety at the intersection. As raise the following points:*

- *As stressed in the Land & Environment Court case for the previous application, 14 dwellings represents a negligible impact on traffic movements along Moss Vale Road.*
- *A proposed deceleration lane for southerly moving vehicles wishing to enter the site was previously accepted by the RTA.*
- *We propose to maintain a right turn lane to access the site for southerly moving vehicles and constrict exit from the site to left out only via a traffic island which can then double as a pedestrian island for those crossing Moss Vale Road;*
- *Prohibiting right turn access into the site via Meryla Road from Moss Vale Road merely relocates the access issue to other parts of Moss Vale Road, most likely Links Road where vehicles will need to turn left before doing a 'U' turn or 3 point turn manoeuvre (typically using residents' driveways) before attempting a right turn out of Links Road and confronting the potentially heavy traffic running north and south. A right turn deceleration lane at the Meryla Road – Moss Vale Road intersection overcomes all of these issues and provides a safe means of pausing before crossing the northerly flow of traffic onto the site. A basic right turn (BAR) intersection has already been proposed for the development. (See Traffic Engineer's Study). This dedicated lane preserves free flowing traffic in a southerly direction so that there will be no disruption to traffic. We contend that a right turn lane is in fact a more practical and potentially safer alternative to that currently suggested (ie left in, left out only).*

COMMENT: A right turn deceleration lane to access Meryla Road for southerly moving vehicles, and restricting exit from Meryla Road to left turn only, is considered acceptable.

However, access to Mt Eymard will require vehicles to take a more circuitous route.

Currently the northern driveway of Mt Eymard serves as exit only and both left out and right out movements are possible. The proposed development would not affect these movements.



Currently the southern driveway of Mt Eymard serves as both entry and exit and all movements are possible. With the proposed median it would not be possible for right turns out of this driveway to head north towards Bowral, nor right turns into Mt Eymard from Moss Vale Road.

With the proposed median in place, entry to Mt Eymard when travelling north along Moss Vale Road would require people to travel onwards to the roundabout at Kangaloon Road and return so as to turn left into the site.

All exits towards Bowral would need to be done at the northern driveway.

**(e) Consideration be given to the construction of a pedestrian refuge**

The applicant states:

*The development of the subject site requires the upgrade of Meryla Road and its intersection with Moss Vale Road. We are aware that Mt Eymard residents are required to cross what is becoming a busy major road (Moss Vale Road) to access the bus shelter opposite Mt Eymard. Despite the very few passengers using this bus stop (averaging 4-5 per day in any 24 hour period), our client is prepared to provide a traffic island for the safety of pedestrians wishing to cross Moss Vale Road at this point whilst also preventing right turn exit from Meryla Road.'*

COMMENT: The provision of the pedestrian refuge is considered acceptable, and is included within the draft conditions of consent.

**ATTACHMENTS**

There are two attachments to this report:

1. Applicant's response letter.
2. Draft conditions of consent.

**RECOMMENDATION**

1. THAT the application be approved subject to the draft conditions included in Attachment 2.
2. THAT those who made a submission be advised of Council's decision.

**o-EP10 Proposed Retail / Commercial Building, Victoria Street, Bowral**

REF: DEP

LUA06/0879

Reporting further on the proposed retail / commercial building and carpark at Lot 3 DP  
1104038 Victoria Street, Bowral.

**REPORT**

At its meeting on 13 June 2007, a Motion moved by Clr Campbell-Jones and seconded by  
Clr D Gair recommended:

- ‘1. *THAT the application be approved, containing the attached draft conditions of  
consent, noting Item 2.*
2. *THAT the three (3) storey component of the building be deleted.*
3. *THAT those who made submissions be advised of Council’s decision.’*

The Motion was lost.

There was no Amendment put forward, although the debate and voting on the Motion clearly  
indicated the desire to refuse the application.

It is considered that Council should confirm that the outcome of its deliberations on this  
matter at its meeting of 13 June 2007 was to refuse LUA06/0879.

**ATTACHMENTS**

There is one attachment to this report (previous report to Council of 13 June 2007 and  
attachments) which has been circulated separately.

**RECOMMENDATION**

THAT Council confirms the position reached at its meeting of 13 June 2007 to refuse  
LUA06/0879 on the grounds of excessive bulk, scale and height, incompatibility with the  
existing character of the locality and concerns over traffic generation.



Scott Lee  
**Director, Environment & Planning**

20 June 2007

## CORPORATE SERVICES DIVISION

<b>o-CS1</b>	<b>Renewal of Outdoor Dining Licence Agreement – The Grand Bar &amp; Brasserie of Bowral</b>
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REF:	PO	1707710, 5406/2
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Reporting on a request by John Griggs, Director of the Licensee - Zamofilm Pty Ltd, to review and renew the outdoor dining licence for the premises known as The Grand Bar and Brasserie of Bowral, situated at The Grand Arcade, Bong Bong Street, Bowral.

### REPORT

#### HISTORY

Council resolved on 27 August 2003 (MN 271/03) as follows:

1. *THAT Council raise no objection to the granting of a licence for a period of three (3) years for the operation of an outdoor dining area on the section of extended footway adjoining the Grand Bar and Brasserie in Wingecarribee Street Bowral.*
2. *THAT rental in the first year be \$4,800 to increase annually by the Consumer Price Index or 5% whichever is the greater AND THAT a licence agreement be executed under the Common Seal of Council.*

The Licensee has recently requested that the outdoor dining licence be renewed for a five (5) year period, substantially on the same terms and conditions of the previous licence.

#### TERMS OF NEW LICENCE

1. The Licensee conducts a hotel business from the premises known as The Grand Bar and Brasserie of Bowral situated in Wingecarribee Street at Bowral.
2. The Licence for the use of the part of Wingecarribee Street Bowral as shown in the plan marked "A" and annexed hereto shall commence on the 22 September 2006.
3. The Licensor has resolved to grant a licence for an area of the footway adjacent to the premises of the Licensee to operate an outdoor dining area subject to the terms and conditions hereunder.
4. The Licensor grants a licence, not Lease, to the Licensee to place and maintain tables and chairs of the agreed type within the outdoor dining area on the footpath in Wingecarribee Street at Bowral.

.....Cont'd

*Cont'd.....*

5. The Licence fee payable by the Licensee to the Licensor for the use of the outdoor dining area shall be \$5,051.45 in the first year. The fee in the second and subsequent years of the Licence shall increase by the consumer price index. The annual licence fee shall be payable yearly in advance unless otherwise agreed.
6. The Licensee shall pay all goods and services tax that may apply to the grant of this Licence.
7. The term of this Licence Agreement is for a maximum period of five (5) years subject to clause 23.
8. The licence shall only operate and have effect during the normal trading hours of The Grand Bar and Brasserie of Bowral.
9. The design and construction of the tables and chairs must be approved by the Council before being placed in the outdoor dining area.
10. The Licensee must provide and keep the tables and chairs and other Licensor approved decorative embellishments strictly within the outdoor dining area and ensure that such tables, chairs and embellishments do not encroach upon the adjoining footway at any time.
11. The Licensee must not erect any structures fixed or non-fixed (eg. Advertisement structures) or place any other objects of a permanent nature on the outdoor dining area or the adjoining footway and public area without the express consent of Licensor first being obtained.
12. The Licensee shall ensure that a width of footpath 2 metres wide is to remain unimpeded for pedestrian at all times.
13. The Licensee shall keep the outdoor dining area in a clean and tidy condition at all times and implement a regime or program for periodic cleaning and maintenance.
14. The Licensee shall keep the outdoor dining area and all the pavement areas surrounding the outdoor dining area free of grease and like substances at all times.
15. The Licensee may use the outdoor dining area for the consumption of food and alcohol providing that any person solely consuming alcohol must be seated at a table provided by the licensee within the outdoor dining area.
16. The consumption of alcohol in the outdoor dining area shall cease at 10.30pm daily in accordance with the approval of Council and the Liquor Administration Board.
17. The Licensee shall during the term of this Licence abide with any current or future policy, resolution or directive of Wingecarribee Shire Council in relation to the consumption of alcohol in public places.

*.....Cont'd*

*Cont'd.....*

18. The Licensee shall during the term of this Licence abide by any current or future New South Wales Liquor Licensing Laws in relation to the serving and consumption of alcohol in public places.
19. The Licensee shall conform with all requirements of Wingecarribee Shire Council's Development Control Plan 50, Outdoor Eating Areas and Other Commercial Use of Community Land.
20. The Licensee must keep in full force and effect for the term of this Licence a policy of public risk insurance with respect to the outdoor dining area and the business undertaken by the Licensee therein. The limit of public risk shall be not less than \$10,000,000 or such other sum as the Licensor may reasonably nominate in writing from time to time as the amount which may be paid arising out of any one single accident or event. The policy shall extend to cover death or injury to any person and damage to property of any person sustained when such person is using or entering the licensed area. The policy must name of Licensor as the owner and the Licensee as the insured, covering their respective interests and must contain a clause that the insurer will not cancel or change the insurance without first giving the Licensor ten (10) days prior written notice. The insurance must be with an insurer approved by the Licensor and a copy of the policy or a certificate of insurance shall be delivered by the Licensee to the Licensor.
21. The Licensee shall indemnify and keep indemnified the Licensor from and against all claims, demands, writs, summonses, actions, suits, proceedings, judgments, orders, decrees, damages, costs, losses and expenses of any nature whatsoever which the Licensor may suffer or incur in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in upon or at the licensed area or the use by the licensee of the outdoor dining area or any part thereof or to any person using or entering or near any entrance, passage, vestibule or display window to into or of the outdoor dining area or occasioned (wheresoever it may occur) wholly or in part by any act, neglect, default or omission by the Licensee, the agents, contractors, servants, workmen, customers of the Licensee or any other person or persons using or upon the outdoor dining area with the consent of approval express or implied of the Licensee. However, the Licensee is not liable to indemnify the Licensor where the occurrence in upon or at the outdoor dining area was occasioned wholly by any act, neglect, default or omission by the Licensor, its employees, agents or contractors.
22. This agreement is a Licence Agreement only and does not confer on the Licensee any rights other than those of a Licensee and the Licensee hereby acknowledges that no relationship of landlord and tenant is created by this agreement or by the Licensee's occupation of the footway or part thereof.
23. Notwithstanding the provision of clause 7, if the Licensee fails to comply with any provision of this Licence the Licensor shall give the Licensee fourteen (14) days notice of such breach. If the Licensee has failed to rectify the breach within fourteen days (14) days of receipt of notice from the Licensor then the Licence shall terminate upon the expiry of that period

*.....Cont'd*

*Cont'd...*

24. In the event that the Licence is terminated under the provisions of Clause 23, the Licensee shall not be entitled to receive any compensation payment or make any claim for damages from the Licensor with respect thereto.
25. The Licensee shall pay the Licensor's costs and stamp duty of and pertaining to this Licence Agreement.

#### BUDGET IMPLICATIONS

Based on the current licence fee of \$5,051.45 and estimated Consumer Price Index increases, Council will earn in excess of \$28,000.00 over the five (5) year period from the outdoor dining licence granted to The Grand Bar and Brasserie of Bowral.

#### CONCLUSION

It is recommended that Council renews the Licence Agreement with The Grand Bar and Brasserie of Bowral for a five (5) year period on the terms and conditions set out above.

#### ATTACHMENTS

There are no attachments to this report

#### RECOMMENDATION

1. THAT Council raises no objection to the granting of a licence for a period of five (5) years from 22 September 2006 for the operation of an outdoor dining area on the section of extended footway adjoining the Grand Bar and Brasserie in Wingecarribee Street Bowral.
  2. THAT rental in the first year be \$5,051.45 to increase annually in accordance with the Consumer Price Index AND THAT the Licence Agreement be executed under the Common Seal of Council.
-

**o-CS2 Request to Execute Real Property Dealing – Cancellation or Extinguishment of Easement**

REF: PO

PN 257500

Reporting on a request by B Bilinsky & Co. to have a Real Property Dealing – Cancellation or Extinguishment of Easement – executed under the Common Seal of the Council.

**REPORT**

B Bilinsky & Co. have requested that a Real Property Dealing entitled Cancellation or Extinguishment of Easement be executed under the Common Seal of the Council: The dealing must be registered at the Department of Lands by Bilinsky & Co. before settlement of a sale proceeds.

Council's consent is sought to the cancellation of the easement created by Deposited Plan 621920 in so far as it affects Lot 2 in Deposited Plan 621920.

This easement should have been cancelled when the new easement was registered by Deposited Plan 636702, however the cancellation was not dealt with at that time.

**CONCLUSION**

It is recommended that the Cancellation or Extinguishment of Easement be executed under the Common Seal of the Council by the General Manager and the Mayor.

**ATTACHMENTS**

1. Copy of Deposited Plan 636702.
2. Copy of Cancellation or Extinguishment of Easement form.

**RECOMMENDATION**

THAT in relation to Lot 2 in Deposited Plan 621920 the Real Property dealing known as Cancellation or Extinguishment of Easement be executed by the General Manager and the Mayor under the Common Seal of the Council.

**ATTACHMENT 1**

Req:R00813 /Doc:DP 0636702 P /Rev:31-Dec-1992 /Sta:OK,OK /Prt:15-Jun-2007 15:35 /Pgs:ALL /Seq:1 of 1  
Ref:Julie Kelly /Src:5

**PLAN FORM 1**

WARRANTY CHASING OR FOLDING WILL LEAD TO REJECTION

Office Use Only

Corporation Certificate  
Shire of Wingecarribee  
Shire Engineer  
D.P. 636702

PLAN EASEMENT TO DRAIN WATER WITHIN LOTS 1, 2 AND 3 IN SH 61950

Shire of Wingecarribee  
County of Camden  
Parish: MITTAGONG  
Length: 1.500 m  
Easement to Drain Water, 3m wide

Lot 1: 176.05m<sup>2</sup>  
Lot 2: 176.05m<sup>2</sup>  
Lot 3: 218.5m<sup>2</sup>

18th September, 1984

Plan Drawing only to appear in this space



**REPORT OF DIRECTOR CORPORATE SERVICES**

**ATTACHMENT 2**

Form: 20ECE  
 Release: 2.1  
 www.lands.nsw.gov.au

**CANCELLATION OR  
 EXTINGUISHMENT OF EASEMENT**

Leave this space clear. Affix additional pages to the top left-hand corner.

New South Wales  
 Section 47(6A) Real Property Act 1900  
 Section 89(8) Conveyancing Act 1919

**PRIVACY NOTE:** Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

(A) TORRENS TITLE	Dominant Tenement		Servient Tenement
	WINGECARRIBEE SHIRE COUNCIL		FOLIO IDENTIFIER 2/621920
(B) EASEMENT CANCELLED/ EXTINGUISHED	Number of Easement		Nature of Easement
	88B/DP621920		
(B) LODGED BY	Document Collection Box	Name, Address or DX, Telephone, and LLPN if any	CODE
		Reference: _____	<b>R</b>
(D) APPLICANT	WINGECARRIBEE SHIRE COUNCIL		

(E) **CANCELLATION Section 47(6A) Real Property Act 1900**

The applicant, being the registered proprietor of the dominant tenement, applies to have the recording of the easement referred to above cancelled as regards the folio(s) of the Register specified above, and annexes hereto (marked "A" ) the consent of any registered lessee, mortgagee or chargee.

**EXTINGUISHMENT Section 89(8) Conveyancing Act 1919** NOT APPLICABLE

The applicant applies to have all necessary recordings made in the Register to give effect to the order of the Supreme Court dated NOT APPLICABLE (an office copy of which is annexed hereto and marked N.A. ) CLICK & PICK extinguishing the easement referred to above.

DATE \_\_\_\_\_

(F) Certified correct for the purposes of the Real Property Act 1900 by the corporation named below the common seal of which was affixed pursuant to the authority specified and in the presence of the authorised person(s) whose signature(s) appear(s) below.

Corporation: \_\_\_\_\_  
 Authority: \_\_\_\_\_

Signature of authorised person: _____	Signature of authorised person: _____
Name of authorised person: _____	Name of authorised person: _____
Office held: _____	Office held: _____

“A”

**Wingecarribee Shire Council and Julie Anne Kelly**

**Agreement to Extinguish Easement**

**Recitals:**

1. By registration of Deposited Plan 636702 an easement to drain water was created over land being Lot 2 in Deposited Plan 621920 at Mittagong in the Shire of Wingecarribee Parish of Mittagong and County of Camden.
2. The creation of the aforesaid easement to drain water was to replace an easement to drain water previously created by the registration of Deposited Plan 621920 registered on 15 February 1982. Due to a surveying error, the original easement to drain water created by the registration of Deposited Plan 621920 was not removed from Deposited Plan 636702.
3. The Wingecarribee Shire Council is the authority empowered to release, vary or modify the easement to drain water.

**Consent to Extinguish Easement:**

Wingecarribee Shire Council consents to the extinguishment of the easement to drain water created by the registration of Deposited Plan 621920 and noted on Deposited Plan 636702 insofar as it affects Lot 2 in Deposited Plan 621920 and the said consent is granted without consideration for the purpose of correcting an earlier error of not extinguishing the easement.

\_\_\_ June 2007

The seal of the Wingecarribee )  
Shire Council was hereunto affixed )  
pursuant to a resolution of Council )  
in the presence of:- )

.....  
General Manager

.....  
Mayor

**o-CS3 Investments as at 31 May 2007**

REF	FSM	2104
-----	-----	------

Submitting details of Council's Investments as at 31 May 2007.

**REPORT**

Submitting details of Council's Investments as at 31 May 2007. (See **Attachment 1**) and also a list of commitments for which these investments are held (See **Attachment 2**)

**ATTACHMENTS**

1. Investment Reconciliation as at 31 May 2007
2. List of commitments

**RECOMMENDATION**

THAT the information on Council's Investments as at 31 May 2007 be received and noted.

---

Barry W Paull  
**Director Corporate Services**

22 June 2007

**ATTACHMENT 1**

**INVESTMENT RECONCILIATION AS AT 31 May 2007**

Bank	Certificates	Rate	Days	Due Date	Value	Consideration	Total
<b><u>Grange Securities</u></b>							
<b><u>Individual Managed Portfolio</u></b>							
Adelaide Bank FR Sub Debt		bbsw + .50%		9/06/2011	3,500,000.00	3,566,745.00	
Aphex (Glenelg)		bbsw + 1.25%		22/06/2009	2,500,000.00	2,538,200.00	
Bank of Qld		bbsw + 1.25%		21/08/2008	500,000.00	506,965.00	
Bank of Qld Sub Debt		bbsw + .29%		2/12/2010	7,000,000.00	7,003,640.00	
Corsair Kakadu		bbsw + 1.00%		20/12/2009	1,500,000.00	1,522,095.00	
Corsair Torquay		bbsw + 1.20%		20/06/2009	2,500,000.00	2,541,100.00	
Cypress Blaxland		bbsw + 1.45%		30/03/2012	600,000.00	611,736.00	
Elders Rural Bank Sub Debt		bbsw + .85%		13/07/2010	500,000.00	508,650.00	
Elders Rural Bank Sub Debt		bbsw + .75%		13/10/2010	500,000.00	507,370.00	
Elders Rural Bank Sub Debt		bbsw + .83%		6/09/2010	1,000,000.00	1,006,050.00	
Helium Esperance		bbsw + 1.10%		20/03/2008	2,000,000.00	2,030,640.00	
Helium Scarborough		bbsw + 1.30%		23/06/2009	3,000,000.00	2,035,500.00	
HSBC FRN		bbsw + .28%		22/09/2011	8,000,000.00	8,122,240.00	
Macquarie Bank Sub Debt		bbsw + .70%		15/09/2009	500,000.00	512,825.00	
Macquarie Bank Sub Debt		bbsw + .85%		18/02/2008	1,000,000.00	1,007,180.00	
Magnolia Flinders		bbsw + 1.50%		20/03/2009	4,200,000.00	3,282,432.00	
Omega Henley		bbsw + .80%		22/06/2012	3,000,000.00	2,028,100.00	
Royal Bank Scotland		bbsw + .28%		17/02/2012	2,000,000.00	2,008,260.00	
Starts Blue Gum		bbsw + 1.40%		22/12/2010	1,050,000.00	1,070,800.50	
Cypress Tree Lawson		bbsw + 1.30%		30/12/2010	1,000,000.00	1,021,100.00	
Elders Rural Bank		bbsw + .60%		6/03/2012	1,000,000.00	998,870.00	
ACES SPC Parkes Class		bbsw + 2.00%		20/12/2009	2,000,000.00	2,044,780.00	
Westpac		bbsw + .35%		4/02/2010	500,000.00	504,305.00	
Bishopgate Wentworth		bbsw + 1.50%		30/09/2010	500,000.00	515,600.00	
Zircon Coolangatta		bbsw + 1.30%		20/03/2011	2,000,000.00	2,030,640.00	
Herald Quartz		bbsw + 1.50%		20/12/2008	560,000.00	572,465.60	
Saphir Endeavour		bbsw + 1.30%		4/08/2011	140,000.00	143,794.00	
Beryl		bbsw + 0.60%		20/03/2010	4,000,000.00	4,045,760.00	
St George		bbsw + 0.31%		26/07/2011	1,000,000.00	1,007,860.00	
Lehman Brothers		bbsw + 1.00%		9/05/2010	3,000,000.00	3,013,320.00	
							58,309,023.10
Macquarie Cash Management Trust						147,222.02	
							147,222.02
<b><u>Short Term</u></b>							
NAB						4,000,000.00	
							4,000,000.00
	May bbsw average 90d	6.37					
							62,456,245.12

Note: The IMP performance for May was .06% above the 90d Bank Bill Index. Since inception the portfolio has performed .54% above the 90d Bank Bill Index.

"I certify that the investments detailed in the above table have been made in accordance with the Local Government Act 1993, the Local Government (Financial Management) Regulation 1999 and Council's Investment Policies".

Doug Neville  
Financial Services Manager

**REPORT OF DIRECTOR CORPORATE SERVICES**

<b>Attachment 2</b>		
<b>COUNCIL INVESTMENT HOLDINGS - PURPOSE)</b>		
<b>Investments Held</b>		<b>Est 31/05/2007</b>
Developer Contributions	Unexpended funds paid by developers for Section 94 and 64 works	7,045,696
RTA Unexpended Grants	Unexpended grant funds received from Roads & Traffic Authority to be expended in 2006/07	1,024,727
Other Unexpended Grants	Unexpended grant funds received from other government departments to be expended in 2006/07	641,802
Loan Repayment Sinking Fund	Sinking funds held for repayment of sewer loan in 2016	168,262
General Fund Accumulated Cash	Represents all General Funds accumulated cash and cash equivalents held at report date	5,915,107
		<b>14,795,594</b>
<b>General Fund Reserves</b>		
Employee Leave Entitlements	Used to fund Long Service, Annual leave and Council commitments to staff entitlements.	876,719
Entrepreneurial Development	Used to provide internal loans that can be repaid into the Reserve. Funded by internal loan repayments, lease income and sale of surplus land.	2,873,555
Entrepreneurial Investment Fund	Funds to be used to develop strategies for new entrepreneurial activities to reduce Council's reliance on rate revenue	2,000,000
Works In Progress	Uncompleted or works in progress at year end, carried forward for completion in following year..	1,389,644
Cemeteries	Funded by additional burial fees and used to fund specific works in Council cemeteries.	30,977
Plant	Used to fund replacement of Council Plant and Equipment. This is a self funding activity.	1,161,265
Performance Appraisal System	Funded by salary savings across all budgets from staff resignations identified at year end. Used to fund staff maternity leave and replacement of staff on significant periods of sick leave.	144,940
Waste	DWM is required to be a self funding activity. Part of this reserve is allocated to DWM, the remainder to RRC and the rehabilitation of the old Welby Tip site.	432,478
Computer Reserve	Used to fund implementation of Dataworks, NAMS licensing, PABX upgrade and replacement of IT hardware.	274,492
Capital Projects	Contributions and EOY surplus transferred to this Reserve. Used to fund specific projects.	1,601,872
Family Day Care	FDC is a self funding activity. EOY results are transferred to or from this Reserve to ensure it remains self funding.	125,606
Effluent Disposal	Funded by a levy as part of septic tank applications and pump outs. Used to fund cleanout of sludge lagoons and updating of land affectation register.	60,922
Land Rental Reserve	Contributions from Water & Sewer for infrastructure on General Fund land. Used to fund Councils matching developer contributions.	2,711,774
Depreciation	Used to cash fund depreciation. Only one year funded to date for Animal Shelter.	4,000
Saleyards	Surplus operating funds to be used to fund OH & S upgrades at the saleyards.	18,000
Bonds, Deposits Etc..	Represents all bonds and deposits held by Council as restricted cash at reporting date. Includes Bonds, Damage, Contractors deposits, Sundry Deposits and Quarry Royalties.	2,684,825
		<b>16,391,069</b>
<b>Water Fund</b>		
Accumulated Cash	Represents all Water Funds accumulated cash and cash equivalents held at report date	4,151,976
Developer Contributions	Unexpended funds paid by developers for Section 94 and 64 works	3,990,509
Works in Progress Reserve	Uncompleted or works in progress at year end, carried forward for completion in following year..	626,746
Plant Reserve	Used to fund replacement of Water Fund Plant and Equipment. This is a self funding activity.	527,804
Pump Replacement Reserve	Used to fund replacement of specific pumps at Council water pumping stations.	45,000
Augmentation Reserve	Used to fund major capital works and subsidised schemes expenditure.	3,421,231
Sales Fluctuation Reserve	Used to fund variations in income from Water Access and User charges.	5,435,611
		<b>18,198,877</b>
<b>Sewer Fund</b>		
Accumulated Cash	Represents all Sewer Funds accumulated cash and cash equivalents held at report date	3,155,510
Developer Contributions	Unexpended funds paid by developers for Section 94 and 64 works	3,967,462
Works in Progress Reserve	Uncompleted or works in progress at year end, carried forward for completion in following year..	1,009,477
Plant Reserve	Used to fund replacement of Sewer Fund Plant and Equipment. This is a self funding activity.	84,240
Pump Replacement Reserve	Used to fund replacement of specific pumps at Council pumping sewer stations.	50,818
Augmentation Reserve	Used to fund major capital works and subsidised schemes expenditure.	3,377,286
Sales Fluctuation Reserve	Used to fund variations in income from Sewer Access and User charges.	1,425,912
		<b>13,070,705</b>
<b>Totals - Estimated as at 31 May 2007</b>		<b>62,456,245</b>

## TECHNICAL SERVICES DIVISION

### o-TS1 Tree Issues at Mittagong Caravan Park

REF: PPM

7142

The purpose of this report is for Council to consider the provision of funds to deal with ongoing tree maintenance issues at the Mittagong Caravan Park.

#### REPORT

##### HISTORY

The Mittagong Caravan Park is leased out to a private operator. The lease does not allow for any major maintenance work and in 2002 following several concerns regarding the mature trees, a report was commissioned. This report details in excess of \$150,000 of work required on the trees both short and long term.

In early 2005 Council allocated \$15,000 to address the urgent tree matters and again in 2005/06 a further \$20,000 was allocated for tree works.

A report was considered by Council on 10 November 2005 recommending \$20,000 per annum for five years, however Council elected to only allocated \$20,000 for one year (resolution attached).

A total of \$35,000 in works has been completed to date, as identified in the Tree Report.

##### CURRENT STATUS

With recent drought conditions and now the rain with associated winds, it is recommended that Council implement the next stage of hazard reduction work on the trees. A further assessment of the trees will need to be conducted and works carried out according to priority. It is estimated that these works will require approximately \$25,000 this financial year (2007/08).

This estimate is based on past history of expenditure and the tree report of 2004/05 which provides a comprehensive report of the trees health.

#### BUDGET IMPLICATIONS

Currently the lease income from the Caravan Park is \$55,000 per annum. There is no allocated maintenance budget and funds will need to be allocated from the Property Reserve.

#### ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

(i) **Environmental Factors**

The maintenance program on the trees is only addressing potential hazards and failures. The removal of trees will have an impact on the overall amenity of the park. Consideration will need to be given in the future for a replacement program.

## CONCLUSION

While any trees that were potentially hazardous have been addressed, there is a need to continue the maintenance program. The condition and overall health of the trees are continually impacted on, due to the adverse weather conditions and environment in which the trees are growing.

The operators of the Park are also concerned for their tenants and potential for claims from failing trees.

It is recommended that Council spend considerable funds for ongoing tree maintenance at the Mittagong Caravan Park for several years. This is estimated to be in excess of a \$100,000 to ensure Council reduces its risks liability.

It should also be noted the current lease was for 3 years, with an option for a further five 3 year options. The next option is due for consideration in February 2008. It may be appropriate for Council to reconsider its position on this lease to reduce Council financial position and re-negotiate lease conditions (subject to legal advice).

## ATTACHMENTS

Previous Report from Council Meeting 10 November 2005.

## RECOMMENDATION

1. THAT Council approves the funding request for \$25,000 for the 2007/2008 Budget AND THAT the funding for this work be allocated from the Mittagong Caravan Park Rental Income, held in the Property Development Reserve.
  2. THAT Council seeks legal advice on renegotiating the lease before renewing another three (3) year option.
- 

M J Brearley  
**Director Technical Services**

20 June 2007

**ATTACHMENT 1**

**Extract from Council Minutes 10 November 2005**

**TECHNICAL SERVICES DIVISION**

**o-TS1 Trees in Mittagong Caravan Park**

REF.	PPM	7142
------	-----	------

The purpose of this report is for Council to consider the provision of funds to deal with ongoing tree maintenance issues at the Mittagong Caravan Park.

Clr M Murray asked that further details of the term of the lease be included in the weekly circular.

The Director Technical Services that he could provide details of all the trees on the site to Councillors.

**OC 153/05**

*The Committee on a MOTION moved by Clr N N Campbell-Jones and seconded by Clr P J Yeo RECOMMENDED:*

*THAT Council approves the funding request for \$20,000 for the current year with a review of the situation at the end of the financial year from the Mittagong Caravan Park Rental Income (held in the Property Development Reserve) for tree maintenance at Mittagong Caravan Park.*

PASSED

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**COUNCIL MATTERS**

**GENERAL MANAGER'S REPORT**

**c-GM1 Weekly Circulars**

REF.	GM	100/8, 203/2007
------	----	-----------------

Confirming receipt of weekly circulars from the Local Government Association and Council weekly circulars.

**REPORT**

Weekly circulars from the Local Government Association and Council weekly circulars have been received and circulated to all Councillors.

**ATTACHMENTS**

There are no attachments to this report.

**RECOMMENDATION**

THAT the information relating to Local Government Weekly Circulars Nos 23/07, 24/07 and 25/07 and Council Weekly Circulars Nos 23/07, 24/07 and 25/07 be noted.

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Mike Hyde  
**General Manager**

21 June 2007

**NOTICES OF MOTION**

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**OTHER MATTERS**

**c-NM1 20/2007 – Notice of Motion - Third Flagpole**

REF: MAS

1826, 100/4, 1615

Clr LAC Whipper has given notice of his intention to move the following Notice of Motion of the Ordinary Meeting at Council on Wednesday 27 June 2007.

1. *THAT Council installs a third flagpole at the front of the Civic Centre for the purposes of flying the Aboriginal Flag along with the Australian and Wingecarribee Shire Council Flags on a permanent basis.*
2. *THAT the official ceremony for the event coincides with the launch of NAIDOC Week on 9 July 2007.*

**RECOMMENDATION**

SUBMITTED FOR DETERMINATION.

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## COMMITTEE REPORTS TABLED

### c-CR1 Management and Advisory Committee Reports

REF. DCS

107/1

Submitting minutes of three (3) Committee meetings that will be tabled for information.

#### REPORT

1. Companion Animals Advisory Committee meeting Tuesday 10 April 2007
2. East Bowral Community Centre Management Committee meeting Tuesday 22 May 2007
3. Tourism Southern Highlands Board meeting Monday 21 May 2007

#### ATTACHMENTS

There are no attachments to this report.

#### RECOMMENDATION

THAT the information contained in the three (3) Committee Reports be noted.



**COMMITTEE REPORTS ATTACHED**

<b>c-CR2</b>	<b>Minutes of the Traffic Committee</b> ( <i>Refer Minutes page 51</i> )
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REF.	DTS	107/6
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Submitting Minutes of the Traffic Committee meeting held on Wednesday, 27 June 2007.

<b>RECOMMENDATION</b>
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THAT recommendation Nos. TC 64/07 to TC 76/07 as detailed in the minutes of the Traffic Committee meeting held on Wednesday, 27 June 2007 be adopted.

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**MINUTES OF THE TRAFFIC COMMITTEE MEETING  
HELD ON MONDAY, 18 JUNE 2007**

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*File No. 107/6*

**PRESENT:** Clr Duncan Gair (Chairperson)  
Mr Danny Benedetti, Roads & Traffic Authority  
Snr Constable, Chris Wildbur - NSW Police  
Mr John Brew (Representing Member for Goulburn, Pru Goward)  
Mr Frank Iacono, Design Engineer  
Ms Charmaine Cooper, Road Safety Officer  
Ms Tracey Greenacre, Secretary

**ALSO**

**PRESENT:** Clr Jim Mauger

**APOLOGIES:** Mr Frank Perger

The meeting commenced at 10.30am.

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**1 REPORT OF THE TRAFFIC COMMITTEE MEETING HELD 14 MAY 2007**

REF	TE	107/6
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Reporting on the Traffic Committee meeting held on 14 May 2007.

**REPORT**

Submitting the report of the Traffic Committee meeting held on Monday 14 May 2007, items TC42 /07 to TC 63/07 inclusive, which was considered and adopted by Council on 23 May 2007 (MN 184/07) with the exception of items.

**TC 64/07**

**RECOMMENDATION**

THAT the information be received and noted.

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## **2 ROAD SAFETY OFFICER PROGRESS REPORT**

REF.	RSO	7410/5
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Reporting on promotions and activities of the Road Safety Officer.

### **TC 65/07**

#### RECOMMENDATION

THAT the projects/campaigns completed or commenced by Council's Road Safety Officer in the last quarter be noted, including:

- U-Turn the Wheel program changes
- Stop Bat Trial at Moss Vale Public School
- Report-a-hazard website presentation to IPWEA NSW Conference.

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## **3 PARKING RESTRICTIONS IN LYELL STREET, MITTAGONG**

REF.	TE	7460/25, RD3164
------	----	-----------------

Reporting on parking restrictions in Mittagong following the opening of the Highlands Marketplace.

### **TC 66/07**

#### RECOMMENDATION

THAT parking restrictions not be imposed in Lyell Street and that the matter be kept under review.

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## **4 PEDESTRIAN SAFETY ISSUES NEAR HIGHLANDS MARKETPLACE, MITTAGONG**

REF.	TE	7460/25
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Reporting on pedestrian safety issues on the Old Hume Highway in the vicinity of Chinaman's Creek near the Highlands Marketplace, Mittagong.

*Note: That Council's design section is currently preparing a Master Plan and subsequent construction drawings for the Welby to Mittagong roadworks/intersections and pathway including consideration of the Chinamans Creek section, which is to be completed by the Home Makers Centre development.*

### **TC 67/07**

#### RECOMMENDATION

THAT temporary barriers not be placed on the Old Hume Highway (MR258) in Mittagong at Chinamans Creek to physically separate pedestrians from the through traffic.



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**5 PARKING RESTRICTIONS FOR ACCESSES IN BUNDAROO STREET, BOWRAL**

REF.	TE	7460/8
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A request has been received for parking restrictions in Bundaroo Street, Bowral to prevent motorists parking across the driveways to businesses on the northern side.

**TC 68/07**

RECOMMENDATION

1. THAT in the interim Council Rangers increase parking patrols in Bundaroo Street, Bowral;
2. THAT remarking of the existing pavement lines outside the entrances of each driveway be carried out;
3. THAT Council undertakes pruning of vegetation where required to allow better sight distance for vehicles when exiting properties;
4. THAT a letter be forwarded to St Thomas Aquinas School and businesses located in the vicinity of Bundaroo Street advising of the existing parking problems and reinforcing the parking regulations.

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**6 PARKING RESTRICTIONS FOR ACCESSES IN RESIDENTIAL AREAS**

REF.	TE	7460/8
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Requesting parking restrictions in Kangaloon Road Bowral for a residential access.

Note: The Roads & Traffic Authority, NSW Police and Council carried out a site inspection of the Kangaloon Road vicinity between Martha Street and Aitken Road. As a result of this inspection, it was recommended that no further action be undertaken.

**TC 69/07**

RECOMMENDATION

THAT no further action be undertaken.

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**7 P PARKING SIGN ON MAIN STREET AT VICTORIA STREET IN MITTAGONG**

REF.	TE	7460/25
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A request has been received for a P parking sign on Main Street (MR260) at Victoria Street in Mittagong.

**TC 70/07**

RECOMMENDATION

THAT a 'P' parking sign be placed on Main Street (MR260) at Victoria Street in Mittagong as an interim measure until the Parking Strategy for Mittagong is in place.



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## **8 CHANGES TO TRAFFIC COMMITTEE PROCEDURES**

REF.	TE	7460/25
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The Roads and Traffic Authority has issued a document called A Guide to the Delegation to Councils for the Regulation of Traffic. There are some changes to the way the RTA would like Local Traffic Committee (LTC) meetings to operate and how the subject matter is reported to Council for adoption.

### **TC 71/07**

RECOMMENDATION
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THAT Council maintain an informal agenda to discuss matters that are not delegated to local Councils at the conclusion of the Traffic Committee meetings.

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## **9 DATE OF THE NEXT TRAFFIC COMMITTEE MEETING**

REF.	TE	107/6
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Reporting on the date for the next Traffic Committee meeting.

### **TC 72/07**

RECOMMENDATION
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THAT the next Traffic Committee meeting be held in the Joadja Room at 9.30am on Monday 20 August 2007.

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## ADDITIONAL ITEMS

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### **ADDITIONAL ITEM 1** **RENAMING OF MAIN ROAD FROM MOSS VALE THROUGH TO NOWRA**

REF.	TE	RD2415 0135, RD2741 5010
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Roads & Traffic Authority received correspondence from Mr Winter, Deputy Captain of Kangaroo Valley Fire Brigade regarding the confusion that Emergency Services are experiencing with the current naming of the main road that travels from Moss Vale through to Nowra.

#### **TC 73/07**

#### RECOMMENDATION

1. THAT the matter be deferred for discussion to the next meeting of the Traffic Committee;
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### **ADDITIONAL ITEM 2** **TRAFFIC ISSUES IN EXETER VILLAGE**

REF.	TE	7460/16
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Reporting on traffic issues in Exeter village. Letter from Mrs Pam Cooper was tabled at the meeting.

#### **TC 74/07**

#### RECOMMENDATION

THAT a site inspection be carried out and reported back to the next Traffic Committee meeting.

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**ADDITIONAL ITEM 3**  
**STOP SIGN AT MERYLA STREET, ROBERTSON**

REF.	TE	RD3624, RD3634, 7415
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Request by Cllr Mauger to investigate replacing the existing 'Stop' sign located at the southern end of Meryla Street, Robertson with a 'Give Way' sign at the intersection of South Street and Meryla Street, Robertson and requesting that the vegetation be cut back on the western side of the Meryla Street and South Street intersection to allow for better sight vision.

**TC 75/07**

RECOMMENDATION
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THAT a site inspection be carried out and reported back to the next Traffic Committee meeting.

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**ADDITIONAL ITEM 4**  
**ROADS & TRAFFIC AUTHORITY - ADVICE ON CLASSIFIED ROADS**

REF.	TE	7820, 1440
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Request by Council's Road Safety Officer that the Roads & Traffic Authority and the NSW Police give verbal updates at each Traffic Committee meeting to advise of major changes/issues within the Shire prior to them occurring.

**TC 76/07**

RECOMMENDATION
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THAT the Roads & Traffic Authority and NSW Police give a verbal update of major issues relating to Wingecarribee Shire Council at the conclusion of the informal agenda.

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## CORPORATE SERVICES DIVISION

<b>c-CS1</b>	<b>Closed Council</b>
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REF.	DCS	107/9
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To consider moving into Closed Council.

<b>REPORT</b>
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1. BACKGROUND

The following confidential reports have been distributed separately:

GM-1	<u>PROPOSED PUBLIC PRIVATE PARTNERSHIP (PPP) – MOSS VALE CREMATORIUM / CEMETERY</u>	2160/1
GM-2	<u>2007 - 2010 COURIER CONTRACT TENDER</u>	608/3, 6330/07.3

2. STATUTORY

Section 10A of the Local Government Act 1993, empowers Council and Committees of which all the members are Councillors to close a part of a meeting in certain circumstances in accordance with the requirements of the Act, and relevant Regulations and Guidelines.

Subject to the provisions of Section 10 of the Act, so much of a meeting may be closed as comprises certain information as outlined in Section 10A(2).

However, the Act also contains the following provisions qualifying the use of Section 10A(2).

Section 10B

- (1) *[Time spent closed to be minimised] A meeting is not to remain closed during the discussion of anything referred to in section 10A(2):*
  - (b) *Except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and*
  - (c) *If the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret-unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.*
- (2) *[Qualification of 10A(2)(g)] A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that:*
  - (a) *are substantial issues relating to a matter in which the council or committee is involved, and*

- (b) *are clearly identified in the advice, and*  
(d) *are fully discussed in that advice.*
- (3) *[Qualification of 10A(3)] If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).*
- (4) *[Irrelevant matters] For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:*
- (a) *a person may misinterpret or misunderstand the discussion, or*  
(b) *the discussion of the matter may:*
- (i) *cause embarrassment to the council or committee concerned, or to Councillors or to employees of the council, or*  
(ii) *cause a loss of confidence in the council or committee.*

Attention is also drawn to provisions contained in Part 7 of Council's Code of Meeting Practice.

### 3. DIRECTOR GENERAL'S GUIDELINES

The Director General of the Department of Local Government has issued guidelines concerning the use of Section 10 of the Act. A copy of the Director General's guidelines has been sent to all Councillors. Section 10B(5) of the Act requires that council have regard to these guidelines when considering resolving into Closed Session.

### **RECOMMENDATION**

1. THAT Council move into Closed Council in accordance with the requirements of Section 10 of the Local Government Act 1993 as addressed below to consider the following reports:

.....Cont'd

Cont'd.....

GM-1 PROPOSED PUBLIC PRIVATE PARTNERSHIP (PPP) – MOSS VALE  
CREMATORIUM / CEMETERY

2160/1

Relevant Legal Provision

*This report is placed in Closed Committee as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business under Clause 10A(2)(c) of the Local Government Act.*

Brief Description

*Reporting on Expressions of Interest for the Moss Vale Crematorium / Cemetery.*

Public Interest

*It would on balance be contrary to the public interest to consider this information in Open Council because it contains information which could confer a commercial advantage.*

GM-2 2007 - 2010 COURIER CONTRACT TENDER

608/3, 6330/07.3

Relevant Legal Provision

*This report is placed in Closed Committee as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business under Clause 10A(2)(c) of the Local Government Act.*

Brief Description

*Submitting a report on tenders received for the provision of Council's Courier Service for a period of three (3) years.*

Public Interest

*It would on balance be contrary to the public interest to consider this information in Open Council because it contains information which could confer a commercial advantage.*

Barry W Paull  
Director Corporate Services

21 June 2007