

File No. 100/07  
Our Ref: RAP

29 February 2008

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, 5 March 2008** commencing at **3.30pm**.

Yours faithfully

Mike Hyde  
**General Manager**

3.30pm	Council Meeting begins
5.30pm	Questions from the Public
6.30pm	Closed Council

# BUSINESS

1. OPENING OF THE MEETING
2. PRAYER – PASTOR JOSHUA MILLER OF THE CHRISTIAN CENTRE
3. PUBLIC FORUM
4. APOLOGIES
5. ADOPTION OF MINUTES OF ORDINARY MEETING HELD ON WEDNESDAY, 27 FEBRUARY 2008
6. BUSINESS ARISING FROM THE MINUTES
7. DECLARATIONS OF INTEREST
8. MAYORAL MINUTE (*if any*)
9. OPEN COUNCIL CHAIRED BY CLR NICK CAMPBELL-JONES
  - Visitor Matters
  - Environment and Planning
  - Corporate Services
  - Technical Services
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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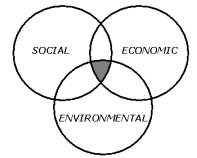
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# Our Values

**EQUITY, JUSTICE and CONSULTATION** in our obligations;

**PRIDE** in our lifestyle and environment;

**EXCELLENCE** in the provision of services;

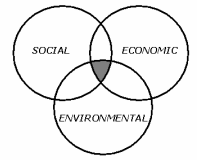
**TEAMWORK, INNOVATION and CO-OPERATION** in our business;

**INTEGRITY**, skill and **DEDICATION** in the achievement of our objectives;

**LEADERSHIP** in the growth and prosperity of our community.



**ORDINARY MEETING OF COUNCIL**  
held in the Council Chamber, Civic Centre, Elizabeth St,  
Moss Vale on Wednesday, 5 March 2008



**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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STRATEGY & FINANCE COMMITTEE MATTERS DEFERRED FROM ORDINARY MEETING OF  
COUNCIL HELD ON 27 FEBRUARY 2008

ENVIRONMENT & PLANNING DIVISION

SF-EP7 Renwick – Voluntary Planning Agreement

REF: DEP

5817/9

Reporting on the progress of the Renwick Voluntary Planning Agreement

Council resolved at its meeting held 27 February 2008 as follows (vide MN 67/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on  
Wednesday, 5 March 2008.*

REPORT

BACKGROUND

Council last considered the Renwick Voluntary Planning Agreement (VPA) on 21 November, at a session attended by Landcom representatives including the senior Development Director responsible for this project. Since that time, Landcom have been working to finalise the draft VPA.

Council needs to endorse the draft VPA for the purpose of public exhibition.

CURRENT POSITION

At the time of writing this report, Landcom had not finalized the legal drafting of the VPA. However, information has been provided to establish the current position.

**Attachment 1** is a document prepared by Landcom entitled *Proposed Renwick Planning Agreement - Clarification of the content and workings of the final draft document*. This sets out the changes made as a result of the last discussions held between Councillors and Landcom in November 2007.

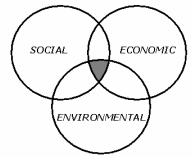
**Attachment 2** is an extract from the VPA, being Schedule 3 which sets out the contributions and works to be made under the VPA.

**Attachment 3** is a diagram of the precincts referred to in the VPA.

Important points:

In relation to the information provided the following points are worthy of note.

- Leisure Centre contributions have been amended to now consist of 5 equal annual payments of \$400,000 pa commencing in July 2010.
- The trigger for the delivery of the Inkerman Road access infrastructure (road upgrade, bridge, and traffic signals) is to be linked to the delivery of the Village Precinct.



Landcom are not willing to accept any restriction that links a certain number of lots created and the delivery of these works. Landcom believes that the staging of the development must be flexible and within their control, but has assured Council that improving access to the site and making the necessary connections through the site are priorities and in their interests as well as Council's. The Village and Tangara precincts, by necessity will be the first precincts to be completed. For instance, the placement underground of the high voltage power lines that traverse the site is necessary to enable the other precincts to proceed and this can only be done after funds are raised through the development of the Village and Tangara precincts. In any event, Council can control the impacts of development as it proceeds through the development assessment process.

- Short term landscape maintenance (2 years) covers all proposed open space areas. The cost of this has resulted in the proposed garden square pocket parks, reflected in the Master Plan, being deleted from the Agreement, although that does not mean they will not be delivered as part of the development
- The total value of the VPA stands at \$16,078,382 or \$26,797 per lot.

#### POLICY IMPLICATIONS

Entering into the VPA is consistent with Council policy.

#### BUDGET IMPLICATIONS

The VPA is designed to reduce budget implications for Council associated with the Renwick development.

#### CONCLUSION

The VPA is required to be placed on public exhibition before the parties can sign off on the final document. The draft VPA will go on exhibition in conjunction with the first major subdivision DA for Renwick which has already been lodged by Landcom.

The details contained in this report outline the proposed contributions/expenditures that make up the VPA. Landcom's legal representatives are finalising the legal drafting of the VPA.

In order to progress the development of the Renwick release area, Council should resolve the place the final draft on exhibition as soon as possible after its receipt.

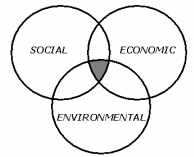
#### ATTACHMENTS

There are three attachments to this report which have been circulated separately:

1. Proposed Renwick Planning Agreement from Landcom.
2. Extract from Voluntary Planning Agreement.
3. Diagram of precincts referred to.

**RECOMMENDATION**

1. THAT on the basis of the information supplied in Attachments 1, 2 and 3 to this report, Council, upon the receipt of the final draft Renwick Voluntary Planning Agreement document, delegate the authority to the DEP to place the VPA on public exhibition.
  2. THAT following the public exhibition process, a report be presented to the Strategy and Finance Committee.
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**CORPORATE SERVICES DIVISION**

**SF-CS2 Investments as at 31 January 2008**

REF	FSM	2104
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Submitting details of Council's Investments as at 31 January 2008.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 68/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on  
Wednesday, 5 March 2008.*

**REPORT**

Submitting details of Council's Investments as at 31 January 2008. (See **Attachment 1**).

The current volatility in the world's credit markets continue to impact on the market to market value of Council's Investments as at 31 January 2008

**ATTACHMENTS**

1. Investment Reconciliation as at 31 January 2008

**RECOMMENDATION**

THAT the information on Council's Investments as at 31 January 2008 be received and noted.

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**ATTACHMENT 1**

INVESTMENT RECONCILIATION AS AT 31 January 2008

Bank	Certificates	Rate	Days	Due Date	Value	Consideration	Total
<b>Grange Securities</b>							
<u>Individual Managed Portfolio</u>							
Adelaide Bank FR Sub Debt		bbsw + .50%		9/06/2011	3,500,000.00	3,467,520.00	
ANZ		8.25%		17/07/2008	750,000.00	687,870.00	
Bank of Qld Sub Debt		bbsw + .29%		2/12/2010	7,000,000.00	6,968,710.00	
Elders Rural Bank Sub Debt		bbsw + .85%		13/07/2010	500,000.00	487,045.00	
Elders Rural Bank Sub Debt		bbsw + .83%		6/09/2010	1,000,000.00	981,160.00	
Elders Rural Bank Sub Debt		bbsw + .75%		13/10/2010	500,000.00	484,535.00	
HSBC FRN		bbsw + .28%		22/09/2011	6,500,000.00	6,265,545.00	
Macquarie Bank Sub Debt		bbsw + .85%		18/02/2008	1,000,000.00	1,015,580.00	
Macquarie Bank Sub Debt		bbsw + .70%		15/09/2009	500,000.00	495,255.00	
Royal Bank Scotland		bbsw + .28%		17/02/2012	2,000,000.00	1,964,000.00	
Elders Rural Bank		bbsw + .60%		6/03/2012	1,000,000.00	945,290.00	
Westpac		bbsw + .35%		4/02/2010	500,000.00	493,645.00	
St George		bbsw + 0.31%		26/07/2011	1,000,000.00	967,960.00	
					25,750,000.00	25,224,115.00	
<b>Liquid Securities</b>							
Aphex (Glenelg)		bbsw + 1.25%		22/06/2009	2,250,000.00	1,557,922.50	
Corsair Kakadu		bbsw + 1.00%		20/12/2009	1,500,000.00	739,425.00	
Corsair Torquay		bbsw + 1.20%		20/06/2009	2,500,000.00	1,631,450.00	
Helium Esperance		bbsw + 1.10%		20/03/2008	2,000,000.00	1,346,320.00	
Helium Scarborough		bbsw + 1.30%		23/06/2009	2,700,000.00	1,722,789.00	
Magnolia Flinders		bbsw + 1.50%		20/03/2009	5,100,000.00	3,774,612.00	
Omega Henley		bbsw + .80%		22/06/2012	2,000,000.00	1,415,100.00	
Starts Blue Gum		bbsw + 1.40%		22/12/2010	1,050,000.00	704,413.50	
Cypress Tree Lawson		bbsw + 1.30%		30/12/2010	1,000,000.00	964,050.00	
MAS6-7 Parkes		bbsw + 2.00%		20/12/2009	2,000,000.00	913,600.00	
Bishopgate Wentworth		bbsw + 1.50%		30/09/2010	500,000.00	462,160.00	
Zircon Coolangatta		bbsw + 1.30%		20/03/2011	2,000,000.00	1,105,980.00	
Saphir Endeavour		bbsw + 1.30%		4/08/2011	140,000.00	126,495.60	
Beryl		bbsw + 0.60%		20/03/2010	4,000,000.00	3,520,760.00	
Zircon Merimbula		bbsw + 1.05%		20/06/2013	500,000.00	284,105.00	
Lehman		bbsw + 0.00%		15/06/2009	560,000.00	510,160.00	
					29,800,000.00	20,779,342.60	
<b>Medium - Long Term Securities</b>							
<b>Total Securities</b>							46,003,457.60

Bank Accepted Commercial Bills

NAB	Various	7.05	60	14/03/2008	3,000,000.00	2,965,631.18	
NAB	Various	7.14	61	26/03/2008	1,500,000.00	1,482,312.16	
							4,447,943.34
Macquarie Cash Management Trust						238,240.87	
							238,240.87

Short Term

NAB						3,000,000.00	
							3,000,000.00

**53,689,641.81**

"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

**SF-CS3 Council Investment Strategy**

REF. FSM

2104

Reporting on a proposed strategy for Council investments.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 69/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on  
Wednesday, 5 March 2008.*

**REPORT**

**1. BACKGROUND**

In January 2007 Council outsourced the management of its surplus funds to Grange Securities. The value of Council's investments have been impacted on by the current volatility in the worlds credit markets and as a result of issues associated with the US Sub-Prime Mortgage Market. This volatility has seen the mark to market value of Council's investments in Bank FRN's decrease by 2.19% and the value of the CDO's decrease by 30.68%.

Council in December 2007 instigated legal action in the Federal Court of Australia for reimbursement of the full face value of the CDO's purchased by Grange Securities and placed in Councils portfolio. On expert financial advice, Council sold the Federation CDO's in January 2008 realising a capital loss of \$2.55m.

The sale of the Federation investment and the decrease in the mark to market value of Councils investments will not significantly impact on the liquidity of Council, its day to day operations or the provision of services to the community in the short to medium term. Council's current cash balance held outside the investments with Lehman Bros is \$12.386m. Should Council be unsuccessful in its action against Lehman Bros it still has the ability to hold the CDO's to their maturity dates.

**2. STRATEGY**

The proposed key points in Council's strategy going forward are as follows:

- (i) Hold all CDO's to their maturity date if the current legal action is unsuccessful.
- (ii) Should Council require additional cash funds for liquidity purposes that a FRN such as the Bank of Queensland investment be sold. The face value of this investment is \$7m while the market value is currently down an amount of \$32,040 or 0.45%. If sold the additional interest received on this investment would offset the capital decrease.
- (iii) That Council fund the capital loss on the sale of its Federation investment from Working Funds as indicated in the following table:

<b>Fund</b>	<b>Working Funds 30/06/07</b>	<b>Federation Funding</b>	<b>Balance Working Funds</b>
General	\$3,463,796.47	\$1,302,491.87	\$2,161,304.60
Water	\$2,854,124.36	\$ 776,556.26	\$2,077,568.10
Sewer	\$2,423,003.51	\$ 470,951.87	\$1,952,051.64
<b>Total</b>	<b>\$8,740,924.34</b>	<b>\$2,550,000.00</b>	<b>\$6,190,924.34</b>

Working Funds represent Councils equity in its net current assets and are used to fund day to commitments such as inventories, debtors and unforeseen circumstances should they arise. These working funds have been accumulated over a number of years through the production of budget surpluses and good financial management.

**ATTACHMENTS**

There are no attachments to this report.

**RECOMMENDATION**

1. THAT the information provided in the report be noted.
2. THAT Council agree to the three strategy points identified in this report and that should circumstances change in regards to Council's liquidity a further report be brought back to Council highlighting those changes and the proposed actions.

Barry W Paull  
**Director Corporate Services**

29 February 2008

**MATTERS DEFERRED FROM ORDINARY MEETING OF COUNCIL HELD ON 27 FEBRUARY 2008**

**ENVIRONMENT & PLANNING DIVISION**

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

REF: DCM 5302

Submitting a list of development consents executed under delegated authority of the Director of Environment and Planning between 18/1/08 and 20/2/08.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 51/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

**RECOMMENDATION**

THAT the information relating to Development Consent Nos 1-13 under Delegated Authority be received and noted.

**Development Applications (DAs) Determined –18/01/08 to 20/02/08  
(Excluding Small Lot Subdivisions and Domestic Applications)**

	LUA No	Property Legal Description	Description
1	LUA07/0218	Lot 10 DP 1040207 Carters Lane, off Golden Vale Road, Sutton Forest	3 lot subdivision
2	LUA07/0930	Lot 4 DP 1104771 Bundanoon Road, Exeter	3 lot subdivision
3	LUA07/0448	Lots 8 & 9 DP 236478, 4-6 Derby Street, Bowral	7 unit residential flat building
4	LUA07/0832	Lot 1 Sec 36 DP 1374, 225 Old Hume Highway, Mittagong	Occupation of Industrial unit – light mechanical repairs, no panel beating.
5	LUA07/1049	Lot 92 DP 751253 'Halls Natives' Douglas Road, Moss Vale	Showroom
6	LUA07/1042	Lot 1 DP 1036670 'Kildrummie' Tourist Road, Kangaloon	Barn, riding arena, alterations to former dairy, installation of WC
7	LUA06/1070	Lot 6 DP 1034907 Bundanoon & Ringwood Rds, Exeter	4 lot Rural subdivision
8	LUA07/0467	Lot 1 DP 780585, No 24 Jellore St, Berrima (Coach & Horse Inn)	Strata Subdivision
9	LUA07/0807	Lot 2 DP 246960 'Owls Wood Farm' Illawarra Hwy, Moss Vale	Demolition of existing shed & erection of stables, covered dressage area & outdoor arena
10	LUA07/0890	Lot 5 DP 2836 & Lot 6 Sec 7 DP 2838 'Kennerton Green' Bong Bong Road, Mittagong	Health retreat including guest accommodation, conference facilities & guest dining
11	LUA07/1187	Lot 10 DP 805345, 228-234 Bong Bong Street, Bowral	Port O'Call Hotel
12	LUA07/0556	Lot 1 DP 1044596 'Anglewood' 17-19 Yean Street, Burradoo	Part use of Anglewood House as a Bed & Breakfast (4 bedrooms)
13	LUA07/0317	Lots 1 & 3 DP 879403 'Spurfield' Illawarra Hwy, Robertson	3 lot subdivision

**o-EP2 List of Development Applications Received By Council**

REF: DCM 5302

Submitting a list of development applications which have been received between 18/1/08 and 20/2/08, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 52/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

**RECOMMENDATION**

THAT the information regarding the List of Land Use Applications Nos 1-26 received by Council be received and noted.

**Development Applications (DAs) Received –18/01/08 to 20/02/08  
(Excluding Small Lot Subdivisions and Domestic Applications)**

	LUA No	Property/Legal Description	Property Address	Description	SIC	Delegation
1	LUA07/1347	Lot 5 DP 1053325	12-14 Old Dairy Close, Moss Vale	Waste sorting & recycling facility (designated development)	✓	
2	LUA08/0065	Lot 1 DP 775152	School, 463 Argyle St, Moss Vale	Student Accommodation Building and Garage		✓
3	LUA08/0099	Lot 2 DP 156737	Highland Bakery 332 Argyle Street Moss Vale	Residential unit over 2 retail shops below to be enlarged & upgraded, retaining existing façade & 1 <sup>st</sup> floor windows, incorporating bathroom & laundry facilities.		✓
4	LUA08/0089	Lot 11 DP 547653	Royal Hotel, 255-261 Bong Bong St, Bowral	POPE – renewal for new licensee		✓
5	LUA08/0062	Lot A DP 418505	19 Clearview St, Bowral (near corner Carlisle St)	Demolish Garden Shed & Add Guest Room to Existing Garage. Views not affected due to boundary hedges.		✓

**Development Applications (DAs) Received –18/01/08 to 20/02/08  
(Excluding Small Lot Subdivisions and Domestic Applications)**

	LUA No	Property/Legal Description	Property Address	Description	SIC	Delegation
6	LUA08/0082	Lot 3 DP 113357 & Lots 122- 123/126-131 DP 751276 & Lot 124 DP 1081709	'Boen Boe' 64 Joadja Rd, Joadja	For existing additional buildings (As identified on amended DA 4/11/05) Capacity is limited to 500 sows and their progeny	✓	
7	LUA08/0086	Lot 23 DP 13235 Lot 2 DP 535086	94-96 Old South Rd, Bowral	5 x Cluster Houses (2 storey detached, 3 brm) & Demolition of Existing Dwelling		✓
8	LUA08/0057	Lot 1 DP 804746	Marist Hermitage Old South Rd, Mittagong	Upgrading of Residential Accommodation and New Conference Room	✓	
9	LUA08/0118	Lot 1 DP 591154	Bushfire shed Railway Pde, Balmoral	Shed & Parking Bay for Balmoral Fire Station		✓
10	LUA08/0090	Lot 3 DP 539399 Lot 3 DP 537154	'Corterre Parc' Range Rd, Mittagong	Horse Arena & Track Upgrade		✓
11	LUA08/0120	Lot 5 DP 9810	35 Sheffield Rd, Bowral	Part Demolition with Alterations & Additions & Carport		✓
12	LUA08/0053	Lot 3 DP 227660 (between Stratford Way & Eridge Park Road)	65 Sunninghill Ave, Burradoo	Demolish Stables and Erect s/storey Detached Dual Occ Dwelling. Retain existing dwelling		✓
13	LUA08/0078	Lot 5 Sec 13 DP 758882	79-81 Illawarra Highway Robertson (corner Meryla St – opposite pub)	Change of Use to Butcher Shop		✓
14	LUA08/0048	Lot 8 Sec 22 DP 111201	37 William St, Mittagong (near corner Spring Street)	Change Garage into Library (incorporated in dwelling)		✓
15	LUA08/0092	Lot 1 DP 735013	Berrima Reservoir, Old Hume Hwy, Berrima	Telecommunications 28.39m Monopole Supporting 3 flush mounted Antennas & Equipment Cabin	✓	
16	LUA08/0119	Lots 13 & 14 DP 1136	6-8 Ella St, Bundanoon (near corner Ross St)	Demolition of Dwelling		✓
17	LUA08/0076	Lot 2 DP 1113246	16 Carrington St, Bowral (near corner Belmore Street)	Two New Villas		✓

**Development Applications (DAs) Received –18/01/08 to 20/02/08  
(Excluding Small Lot Subdivisions and Domestic Applications)**

	<b>LUA No</b>	<b>Property/Legal Description</b>	<b>Property Address</b>	<b>Description</b>	<b>SIC</b>	<b>Delegation</b>
18	LUA08/0054	Lot 3 S/P 79882	3/458 Argyle St, Moss Vale (opposite Aurora College)	Art Gallery		✓
19	LUA08/0115	Lot 29 DP 15335	11 Nicholas Ave, Bundanoon (corner Penrose Road)	Demolish Garage		✓
20	LUA08/0155	Lot 1 DP60954 (next to Bing Lee)	5 Boolwey Street Bowral	Change of Use from Shops to Restaurant (The Journeyman, relocating from Berrima)		✓
21	LUA08/0143	Lot B DP 156640 (cnr Lackey Rd)	4 Parkes Road Moss Vale	Change of Use from Car Detailing to Office / Storage		✓
22	LUA08/0166	Lot C DP 158526	Illawarra Highway Moss Vale	McDonalds Restaurant & Drive-thru & Signage	✓	
23	LUA08/0144	Lot 7 DP 800183 (cnr Church Rd)	53-55 Wembley Road Moss Vale	10 x Strata Villas	✓	
24	LUA08/0150	Lot 2 DP 31498 (cnr Quarry St)	8 Lennox Road Berrima	Additions to Existing Dwelling & New Deck		
25	LUA08/0154	Lot 307 DP 1040419	Milton Park Hotel Horderns Road, Bowral	Additional Accom 32 x Hotel Rooms	✓	
26	LUA08/0151	Part Lot 2 DP 1115018	Kangaloon Road Kangaloon	Demolition & Erection of Garage & Store		✓

**o-EP3 Land Use Applications Received**

REF: DCM

5302

Submitting a list of Land Use applications received under delegated authority of the Director of Environment & Planning for the month of January 2008.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 53/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

**RECOMMENDATION**

THAT the information regarding the List of Land Use Applications Received by Council for the month of January 2008, be received and noted.

LAND USE APPLICATIONS								
(Includes DA's, Const. Cert., BA's Local Gov. Act, Sandwich Boards, St App)								
Month	Total Applications Received		Cumulative		Dwellings DA's Only		No of Flats/ Units / Dual Occ / Cluster Housing SEPP SL No of units in brackets	
	2007	2008	2007	2008	2007	2008	2007	2008
January	105(*20)	89(*16)	105	89	12	10		2(4)
February	116(*11)		221		15			
March	115(*13)		336		25			
April	96(*8)		432		15		1(4)	
May	121(*19)		553		25		3(8)	
June	131(*18)		684		19		1(4)	
July	119(*18)		803		29			
August	129(*18)		932		19		3(7)	
September	122(*24)		1054		9			
October	154(*25)		1208		12		1(3)	
November	142(*13)		1350		27		1(5)	
December	113(*12)		1463		19			

\*Notice of issue of Construction Certificates & Complying Development Certificates by Private Certifier

NOTE # Includes Seniors Living (SEPP 5)

**Please note the increase in Dwelling lodged for month of June is due to the introduction of Basix on the 1<sup>st</sup> July 2005**

**o-EP4 Proposed Release of Easement, Centennial Road, Bowral – Council Seal**

REF: DEP

DA597/94

Reporting on proposed release of easement for access at Lot 2 DP 732224 Centennial Road, Bowral.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 54/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

**REPORT**

A request has been made for the release of an easement for access at the above address. The easement was originally required to provide access to infrastructure for the Bowral Water Supply, and is no longer required.

Council is requested to release the easement under its Common Seal of the Council.

**ATTACHMENTS**

There is one attachment to this report (applicant's request)

**RECOMMENDATION**

1. THAT the Mayor and General Manager be granted authority to execute release of the land from terms of the easement under the Common Seal of Council.
2. THAT all costs relating to this matter be paid by the applicant.

# PHILIP BOYCE & ASSOCIATES

## Solicitors

Principal: Philip Leslie Boyce  
Senior Associate: Meredith Hatton BA (Hons)LLB  
ABN 92 747 316 202

SCANNED

Our Ref: Philip Boyce:gs:73234  
Your Ref:

7 January 2008

The Property Officer  
Wingecarribee Shire Council  
DX 4961 BOWRAL

WINGECARRIBEE SHIRE COUNCIL	
Classification:	MAILINI
Doc. No.	PIN 328447000
File No.	DA 597/94
10 JAN 2008	
OFFICER	
PLO	

ORIGINAL  
SENT

Scan plan

Dear Sir/Madam

**Isthmus Holdings Pty Ltd – registration of Plan of Subdivision**  
**Property: Lot 2 DP 732224 at Centennial Road, Bowral**

SCANNED

We act for Isthmus Holdings Pty Ltd, the registered proprietor of the above land.

In about August 1996 our client completed a Plan of Subdivision. Our client did not attend to registration of the Plan at that time.

Our client now seeks to have the Plan of Subdivision registered at LPI NSW.

The Plan provides for a right of access 10 metres wide to be created in favour of Wingecarribee Shire Council and for an easement for access L711160 benefiting the Minister for Public Works to be released.

We have been attempting to track down the person responsible for releasing the easement on behalf of the Minister.

We have spoken to various officers of the Department of Public Works and the Department of Commerce. At last, we spoke to Gerard Kenny (9338 7029) of the Department of Commerce. He kindly telephoned Mark Williams of Council and we understand that Mark Williams indicated that the original easement in favour of the Department of Public Works should have been Wingecarribee Shire Council. The easement had to do with the old Bowral water supply.

*MB*

Liability limited by a scheme approved under Professional Standards Legislation

**BOWRAL OFFICE:**  
Suite 1,  
36 Wingecarribee Street  
BOWRAL NSW 2576  
Tel: 02 4861 6790  
Fax: 02 4861 6792

**All Correspondence to:**  
P.O. Box 1596  
BOWRAL NSW. 2576  
or **DX 4972 BOWRAL**  
Email: [info@boycelawyers.com](mailto:info@boycelawyers.com)

**DX 4972 BOWRAL**

- 2 -

At the suggestion of Mark Williams, we write to you to arrange for the consent of Council to be endorsed as after registration of the Plan of Subdivision, it will have the benefit of the easement and Council will also be able to arrange for the representative of the Minister for Public Works to endorse the Section 88B Instrument and the Linen Plan to indicate the Minister's consent to the release of the easement.

We now enclose:-

1. Original Linen Plan and 3 copies; and
2. Section 88B Instrument

Would you please arrange for Council to execute the Section 88B Instrument and the Linen Plan and also arrange for the Minister's representative to endorse both documents.

Yours faithfully

**PHILIP BOYCE & ASSOCIATES**

per:

Encl.



**o-EP5 Council Donation toward Transitional Housing for Homeless Women**

REF: SPM

1822/1 1823/1

Seeking Council's renewal of its agreement with Argyle Housing to maintain transitional housing for women and children affected by domestic violence and homelessness in the Wingecarribee Shire.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 55/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

**REPORT**

In May 2003, Council resolved to donate \$20,000 annually under a three year agreement for maintenance of two properties managed by Argyle Housing for this purpose with priority given to clients referred by Southern Highlands Pathways, the St Vincent De Paul Society women's accommodation brokerage scheme.

At the same time Council resolved to review this commitment after three years when the NSW Department of Community Services (DoCS) would review operational funding for the brokerage scheme.

Prior to this agreement Council had donated \$20,000 p.a. since the mid 1980s towards maintenance of a local women's refuge which the St Vincent De Paul Society was forced to close due to lack of operational funding.

Council's decision to recommit this donation was significant in influencing State government funding to establish Pathways and to ensuring emergency, transitional and other forms of housing assistance for women and children affected by violence or homelessness within Wingecarribee Shire.

While the DoCS evaluation was delayed due to State-wide review of the Supported Accommodation Assistance Program (SAAP), operational funding for Pathways was renewed and increased at end 2007 to meet recommended SAPP service levels, giving assurance that Pathways is a State funded service provider for this Shire.

Council's donation maintains two properties in Bowral, assisting eight families each year. Pathways advises that these properties are a real safety net providing clients with special needs up to three months accommodation along with help to secure long term accommodation including priority access to community housing when available.

Argyle Housing advises that it could not maintain these properties for transitional housing without Council's donation. Maintenance costs include land and water rates, cleaning, gardening and lawns, electricity, administration, management fees and loss of rent when tenants relocate or for required maintenance. Argyle Housing allows tenants a week at no rental cost when moving to long term accommodation. Expenditure for 2006/07 was \$18,175 plus loss of rental income of \$3,885 due to vacancy rates.

While Pathways offers flexible assistance to women and children who are escaping domestic violence or experiencing housing crisis, local accommodation options are few. Private rental housing is expensive and competitive. Social housing is limited with extensive waiting periods. There is no suitable boarding house accommodation and tourism restricts access to sources of temporary accommodation such as motels and caravan parks.

Consequently the St Vincent De Paul Society has also committed funding to providing medium term accommodation for Pathways clients and is exploring means to increasing this housing stock.

The Shire Community Services Working Group advises that continuation of Council's donation to maintain the two existing transitional housing properties is warranted and that Consumer Price Indexation (CPI) should be applied annually to this donation to meet rising property maintenance costs.

#### MANAGEMENT PLAN ISSUES OR IMPLICATIONS

Council's Management Plan and Annual Report must include and report on access and equity activities linked to the Social Plan. Council's contribution to ensuring local provision of emergency and transitional housing assistance for women and children affected by domestic violence and /or homelessness is significant in this context.

#### POLICY IMPLICATIONS

Application of a CPI increase to this donation may require Council to consider applying CPI increases to all annual donations.

#### BUDGET IMPLICATIONS

Council's draft budget for 2008/2009 makes provision for a donation of \$20,000 for this purpose. The current Consumer Price Index of 3.3% applied to this amount is \$660 and would increase Council's donation to a total of \$20,660 for 2008/2009.

Annual CPI increases thereafter would similarly increase the base donation by increments. For example in 2009/2010, 3.3% indexation on \$20,660 would be \$682, increasing Council's donation for that year to \$21,342.

#### ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

##### **(ii) Social Factors –**

Domestic violence affects all levels of the community. Victims experience poor mental and physical health due to injury, emotional trauma, fear, humiliation or isolation and even death. Women who experience domestic violence have higher rates of depression, anxiety, phobias, dissociation, alcohol abuse and drug dependence. The effects on children and young people can also be profound.

When support services are unavailable, women and children attempting to escape a violent relationship can be placed in much greater danger. The most dangerous time for victims and their children is the period of up to eighteen months after separation.

**(iii) Economic Factors -**

Not applicable

**ATTACHMENTS**

There are no attachments to this report.

**RECOMMENDATION**

1. **THAT** Council confirms its annual donation of \$20,000 per annum from the base budget to Argyle Housing for the maintenance of two properties designated as transitional housing for homeless women and women with children in the Wingecarribee Shire with priority of access given to clients referred by Southern Highlands Pathways.
2. **THAT** Council endorses annual application of consumer price indexation (CPI) to this donation of \$20,000 for Argyle Housing to meet increasing maintenance costs of the two designated transitional housing properties.
3. **THAT** Council delegates authority to the General Manager to renew Council's partnership agreement with Argyle Housing as per terms of the original agreement and confirming each party's commitment to maintaining two properties as transitional housing for homeless women and women with children in the Wingecarribee Shire, with priority of access given to clients referred by Southern Highlands Pathways.
4. **THAT** Council delegates authority to the General Manager to renew Council's partnership agreement with Argyle Housing on a triennial basis, on receipt of confirmation that the NSW Department of Community Services continues to fund operations of Southern Highlands Pathways and that arrangements between Pathways and Argyle Housing remain effective with respect to client referrals.



Scott Lee  
**Director Environment & Planning**

29 February 2008

## CORPORATE SERVICES DIVISION

### o-CS1 Committee Appointments & Resignations

REF	MAS	107/1
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Reporting on Management Committee Appointments and Resignations.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 56/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

### REPORT

**1. Mittagong Memorial Hall Management Committee File No: 7226/4**

The Mittagong Memorial Hall Management Committee at its meeting held on 6 December 2007 received the nomination of Robyn Miller to the Committee.

Committee Recommendation

THAT Robyn Miller be appointed to the Mittagong Memorial Hall Management Committee and THAT Ms Miller be notified of Council's determination.

**2. Yerrinbool Community Hall Management Committee File No: 7224/1**

The Yerrinbool Community Hall Management Committee at its meeting held on the Tuesday 22 January 2008 received the nomination of Grace Romeo to the Committee.

Committee Recommendation:

THAT Grace Romeo be appointed to the Yerrinbool Community Hall Management Committee and THAT Ms Romeo be notified of Council's determination.

**3. Loseby Park Youth Centre Management Committee File No 7182/1**

The Loseby Park Youth Centre Management Committee at its meeting on the 31 January 2008 received the nomination of Kenneth Camplin to the Committee.

Committee Recommendation

THAT Kenneth Camplin be appointed to the Loseby Park Youth Centre Management Committee and THAT Mr Camplin be notified of Council's determination.

### ATTACHMENTS

There are no attachments to this report.

**RECOMMENDATION**

1. THAT Robyn Miller be appointed to the Mittagong Memorial Hall Management Committee AND THAT Ms Miller be notified of Council's determination.
  2. THAT Grace Romeo be appointed to the Yerrinbool Community Hall Management Committee AND THAT Ms Romeo be notified of Council's determination.
  3. THAT Kenneth Camplin be appointed to the Loseby Park Youth Centre Management Committee AND THAT Mr Camplin be notified of Council's determination.
  4. THAT the Mittagong Memorial Hall Management Committee, Yerrinbool Community Hall Management Committee and Loseby Park Management be notified of Council's determination.
-

**o-CS2 Acquisition Part 5-15 Loftus Street, Bowral**

REF. PO PN859400; 7121; 5700/37

Reporting on a proposal to acquire the portion zoned 9(b) Proposed Local Road Zone within the property known as 5-15 Loftus Street, Bowral for the purpose of a bypass road through the property.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 57/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

**REPORT**

Council had liaised with Telstra Property in early 2007 for the proposed acquisition of the whole of the land known as 5-15 Loftus Street, Bowral, however the whole of the property was subsequently sold on 31 May 2007 by Telstra to H & D Roofing Pty Ltd for the sum of \$880,000.00.

The whole of the property known as 5-15 Loftus Street comprises Lots 1 & 2 in Deposited Plan 535675; Lots 5, 6, 9, 12 & 13, Section 4, Deposited Plan 976973; Lots 10 & 11, Section 4, Deposited Plan 74707.

The whole property has a total area of 11,440 square metres (1.14 hectares) and has dual zoning: Industrial 4(a) and 9(b) Proposed Local Road Zone. The area zoned Industrial 4(a) is approximately 8,640 square metres in area. The area zoned 9(b) Proposed Local Road Zone is approximately 2,800 square metres. These estimates are subject to survey.

Under the new LEP, the dual zoning will remain for this property with similar zones in place to the current LEP.

**MANAGEMENT PLAN ISSUES OR IMPLICATIONS**

**PLANNING:**

Part 3A Permit – Redevelopment of the site may trigger the need for a Part 3A Permit from Department Natural Resources, as works may occur within 40 metres of an intermittent watercourse.

Local Environment Plan - The area of land set aside for road within the property has been zoned as 9(b) Proposed Local Road zone since 1989. This has been carried through into the draft Local Environment Plan. Further, the by-pass has been proposed throughout Council's long term traffic modelling and has shown to be beneficial.

**POLICY IMPLICATIONS**

To minimize the long term impact of traffic congestion in Bowral CBD, Council's policy No.8029 , was formulated noting the need for a positive long term western by-pass of Bowral/Burradoo to be recognized as a Town Planning constraint. *Copy policy attached.*

**BUDGET IMPLICATIONS**

A valuation was obtained by Council in July 2007 from registered valuers, who valued the land at \$201,500.00 as at that date.

It is proposed that this acquisition be funded from the Property Development Reserve.

**ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

**(i) Environmental Factors**

Flood and drainage

The property is within a High Flood Risk area. The soil is clay based. The land has a very gentle fall from the north eastern corner on Loftus Street to its rear south western corner.

The site falls within a catchment that Council has by resolution on 14 April 2004 identified as containing significant drainage constraints and that there should be a Moratorium on development in that catchment until a Floodplain Management Plan is adopted for this catchment.

Motion 4 of MN 145/04 required

*"THAT Council advise that all new and unapproved development in the catchment:*

- (i) of the drainage constraints and the action Council is taking;*
- (ii) the likely delays in approval of development application; and*
- (iii) each applicant is afforded the opportunity to show why exceptional circumstances justify the Moratorium not applying to their development application.*

The Floodplain Management Plan has not been finalised, however it is progressing.

Potential contamination

Council has evidenced that the underground fuel tank and bowser, previously in use historically, have been removed and validated. It is also noted that additional analysis has taken place across the site.

Council notes that the site is suitable for the ongoing commercial/industrial land use, and that, if the were considered for a more sensitive land use, further soil and groundwater investigations would be required to assess the suitability of the site for these purposes. The site is therefore listed on Council's Affected Land Database.

**(ii) Social Factors**

With the continued growth of population in the Southern Highlands, a bypass connecting Moss Vale Road with Station Street would relieve traffic congestion in the Bowral CBD.

**CONCLUSION**

It is recommended that Council consider acquiring the portion of land within 5-15 Loftus Street, Bowral, currently zoned 9(b) Proposed Local Road, for the purpose of constructing a bypass road through the property, connecting with Station Street Bowral.

**ATTACHMENTS**

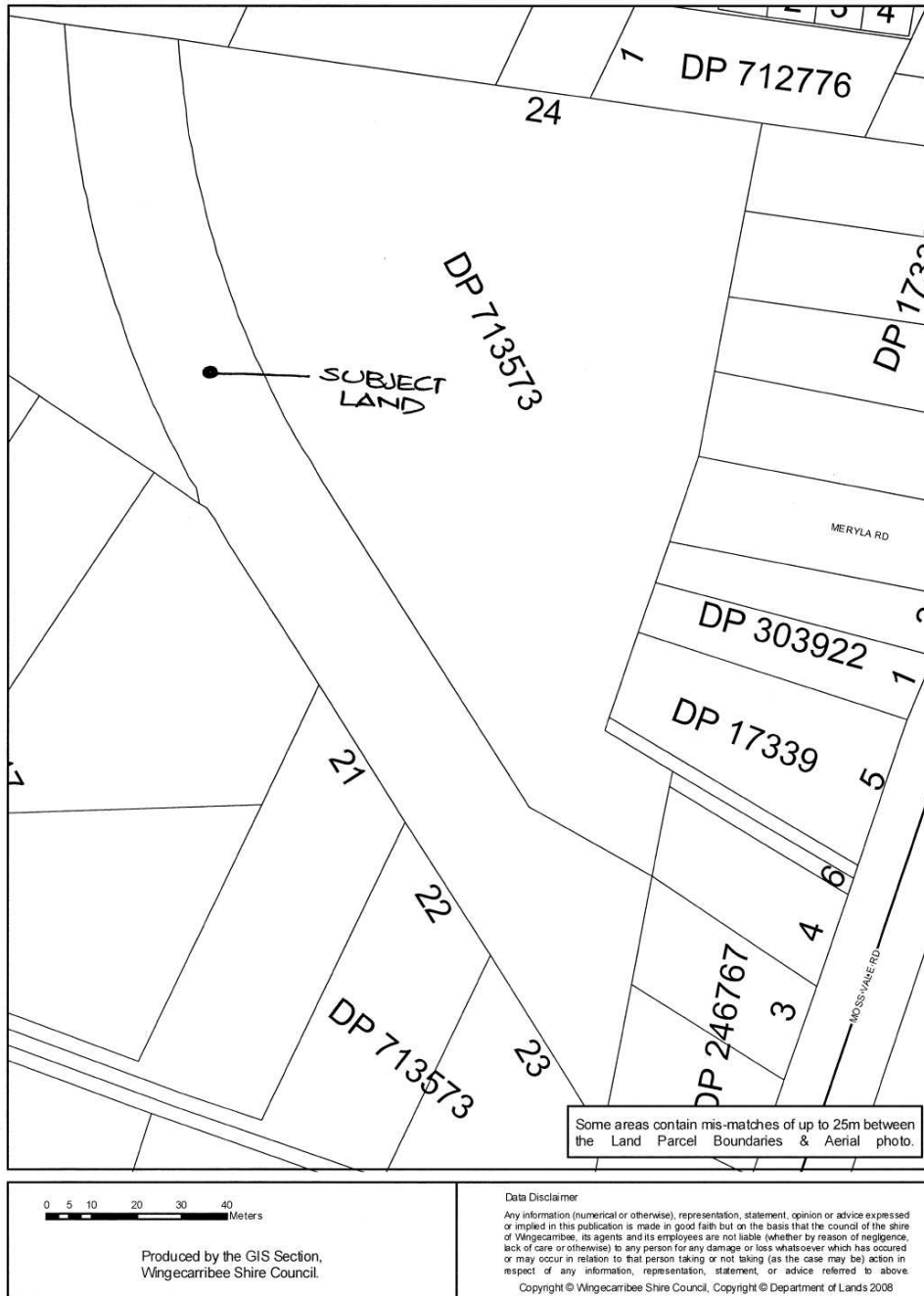
Land Parcel Map identifying the portion of land to be acquired.

**RECOMMENDATION**

1. THAT Council offers the registered proprietor of the land known as 5-15 Loftus Street Bowral the sum of Two Hundred and One Thousand Five Hundred Dollars (\$201,500.00) to acquire the portion of land within 5-15 Loftus Street, Bowral, currently zoned 9(b) - Proposed Local Road.
  2. THAT it be noted that the purpose of the acquisition is to construct a bypass road through the property, connecting with Station Street Bowral.
  3. THAT the General Manager be delegated authority to negotiate with the registered proprietor, H & D Roofing Pty Ltd for the purpose of the acquisition.
  4. THAT any Deed of Agreement or Transfer document be executed by the General Manager and Mayor under the Common Seal of the Council.
  5. THAT, should the registered proprietor not accept Council's offer of Two Hundred and One Thousand Five Hundred Dollars (\$201,500.00) compensation for the acquisition within twenty eight (28) days of the offer in writing by Council THAT Council raises no objection to the subject property being acquired by the compulsory acquisition process and accepts the compensation as determined by the Valuer General.
  6. THAT funding for this proposal be allocated from the Property Development Reserve.
-

**ATTACHMENT 1**

**Wingecarribee Shire Map**



**o-CS3 Alexandra Square**

REF. DCS

6606/3

Reporting on the status of the future of Alexandra Square.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 58/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

**REPORT**

**BACKGROUND**

At Council's Ordinary meeting on Wednesday 30 January 2008, Cllr P George requested that advice be provided on the current status of discussions on the future of Alexandra Square.

As Council would be aware, advice has been sought from the Attorney-General and independent legal advisors on a number of key issues relating to the future use of Alexandra Square and the requirements of the Trust Deed on the property. In accordance with Council's direction, specific advice has been sought on the following two matters:-

- (i) The types of activities that can be conducted on the site in compliance with the Trust Deed.
- (ii) The legal options available to Council to remove the Trust Deed.

**WHAT ACTIVITIES CAN BE CONDUCTED ON THE SITE?**

Council's solicitor has provided a number of opinions on this matter with the most recent being provided on 14 December 2007 and the conclusion of the advice is that:

*"A public recreation reserve comprises of open space land which has been cleared or grassed and used for recreational activities. Whilst the reserve could be used for the playing of sports, the definition was equally satisfied if the ground was merely a park".*

*"In essence, a public reserve comprises of land dedicated for outdoor enjoyment";*

*"References to public parks and public reserves place emphasis upon the use of land for recreation and enjoyment by the public generally. It would not, in our opinion, extend to cultural, social and educational activities or pastimes. The meaning of "public reserve" should be constructed in the context of it being a public park".*

**HOW COULD COUNCIL REMOVE THE TRUST DEED?**

The second matter is the subject of a joint opinion from Mr Mark Leeming SC and Mr Clifford Ireland and deals with the issue of how Council may remove the Trust Deed on the property.

The conclusion of this advice was as follows:-

*“As set out above, we think it is open to Council lawfully to prepare a draft LEP in accordance with the procedures in the **Environmental Planning and Assessment Act 1979** and Div 1 of Pt 2 of the **Local Government Act 1993** to reclassify the land as operational land and in addition extinguish the Trust. In particular, it is mandatory that a public hearing into the draft LEP be held under S68 of the **Environmental Planning and Assessment Act 1979** as required by S29 of the **Local Government Act 1993**. For the LEP once made to have effect in accordance with its tenor the Governor must approve of the making of the LEP before it is made by the Minister. As we see it, although it necessarily raises what we consider a relatively complex question of power, we think this is the most obvious way forward for the Council”.*

### CONCLUSION

In summary, the legal opinions confirm the position that to comply with the existing trust deed, Council would need to return Alexandra Square to a public park. Alternatively, if Council wished to consider other alternative uses for the site, Council would need to undertake a re-categorisation of the site from “Community Land” to “Operational Land” via an LEP process in accordance with the requirements of the EP&A Act 1979.

Once the site was re-categorised as operational, the trust deed would be removed and Council would not be required to complete a Plan of Management for the site. Effectively therefore Council could then deal with the land in any way it deemed appropriate, including to lease or sell part or all of the site. It would also allow Council to utilise the existing building on the site for whatever Council deemed most appropriate.

### RECOMMENDATION

1. THAT Council notes the legal advice.
  2. THAT Council determines its position on the future use and management of the Alexandra Square precinct.
-

## TECHNICAL SERVICES DIVISION

### **o-TS1 Moss Vale Livestock Selling Centre**

REF: PPM

7170

The purpose of the report is to submit the Moss Vale Livestock Selling Centre 2006/07 Annual Report to Council for consideration.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 59/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

### REPORT

#### 1. HISTORY

The Moss Vale Livestock Selling Centre operates under the guidance of the Moss Vale Livestock Selling Centre Advisory Board. The Board reports the status of the Moss Vale Livestock Selling Centre on an annual basis.

#### 2. CURRENT STATUS

During 2006/2007 the strong vealer/local trade market lead the way with consistently good prices for quality cattle throughout the year.

Ring/Fat Sales	Throughput	40,848 head
Store Sales	Throughput	14,160 head
Private	Throughput	<u>541 head</u>
<b>TOTAL</b>		<b>55,549 head</b>

Operating efficiency was improved with the introduction of soft flooring in the latter part of 2006. Positive feedback was received from Stakeholders and labour costs and water consumption were reduced in the cleaning of the yards.

The Selling Centre has been audited by the PP Board and the DPI and has received very positive feedback and commendations on the processing and scanning for NLIS.

#### 3. BUDGET IMPLICATIONS

The Moss Vale Livestock Selling Centre is a self funding unit of Council which endeavours to make a return to Council on its \$4 million assets. The Centre is subject to market forces beyond its control that impacts on the number of livestock sold and the associated return to Council. These forces include weather conditions and the impact of overseas exports.

#### 4. CONCLUSION

Expenditure was carefully monitored to ensure the Moss Vale Livestock Selling Centre was financially viable.

The Moss Vale Livestock Selling Centre has made a return of \$100,000 to Council's General Fund and completed Capital works to the value of \$44,300 in addition to making a small profit of \$71,908.

#### ATTACHMENTS

Moss Vale Livestock Selling Centre Annual Report for 2006/07 (**attachment under separate cover**).

#### RECOMMENDATION

1. THAT Council notes the contents of the Annual Report;
  2. THAT Council thanks the members of the Moss Vale Livestock Selling Centre Advisory Board for their contribution in 2006/07.
-

**o-TS2 Draft Plan of Management for Eridge Park, Bowral**

REF: PPM

6500/23, 6530/3

Submitting the draft Plan of Management for Eridge Park, Bowral for adoption by Council.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 60/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

REPORT

1. BACKGROUND

The Plan of Management has been prepared in accordance with the provisions of the Local Government Act 1993. The Act requires Councils to prepare Plans of Management for all land under Council ownership or control classified as community land.

The Plan of Management identifies the responsibilities of Council and end users in the use of the site on a day to day basis, as well as establish a framework for consistent planning over a ten year period.

2. THE DRAFT PLAN OF MANAGEMENT FOR ERIDGE PARK, BOWRAL

Plans of Management are public documents, and as such require stakeholders to be involved in their formation.

The Draft Plan of Management for Eridge Park, Bowral was duly completed and placed on public exhibition, commencing Wednesday 21 November 2007, for a period of 28 days with an additional 14 days allowed to receive submissions.

The Plan of Management requested public submissions for the proposed management strategies for Eridge Park, Bowral

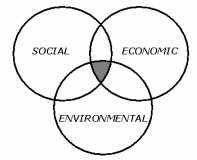
No submissions were received.

ATTACHMENTS

Draft Plan of Management for Eridge Park, Bowral (**attachment under separate cover**)



**ORDINARY MEETING OF COUNCIL**  
held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 5 March 2008



**REPORT OF DIRECTOR TECHNICAL SERVICES**

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**RECOMMENDATION**

THAT the draft Plan of Management for Eridge Park, Bowral be adopted AND THAT this document be known as the Plan of Management for Eridge Park, Bowral.

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## GENERAL MANAGER'S REPORTS

<b>c-GM1</b>	<b>General Manager's Quarterly Report</b>
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REF.	GM	506/1
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Submitting the General Manager's Quarterly Report to 31 December 2007.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 61/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

REPORT
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The General Manager's Quarterly Report has previously been circulated under separate cover.

ATTACHMENTS
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The General Manager's Quarterly Report has previously been circulated under separate cover.

RECOMMENDATION
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THAT the information in respect of the General Manager's Quarterly Report to 31 December 2007 be received and noted.

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**c-GM2 Weekly Circulars**

REF.	GM	100/8, 203/2008
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Confirming receipt of weekly circulars from the Local Government Association and Council weekly circulars.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 62/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

**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 03-06/08 and Council Weekly Circulars Nos 03-07/08 be noted.

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**COMMITTEE REPORTS**

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**COMMITTEE REPORTS TABLED**

<b>c-CR1</b>	<b>Management and Advisory Committee Reports</b>
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REF.	DCS	107/1
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Submitting minutes of three (3) Committee meetings that will be tabled for information.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 63/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

<b>REPORT</b>
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1. Strategy & Finance Committee meeting 30 January 2008
2. Services & Infrastructure Committee meeting 6 February 2008
3. Whites Creek Floodplain Management Committee meeting 3 December 2007

<b>ATTACHMENTS</b>
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There are no attachments to this report.

<b>RECOMMENDATION</b>
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THAT the information contained in the three (3) Committee Reports be noted.

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**COMMITTEE REPORTS**

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**COMMITTEE REPORTS ATTACHED**

**c-CR2 Legal Committee** (Refer minutes page 40)

REF DEP

107/22

Submitting minutes of the Legal Committee meeting held on Wednesday, 13 February 2008.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 64/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

**RECOMMENDATION**

THAT the recommendations as detailed in the minutes of the Legal Committee meeting held Wednesday, 13 February 2008 be adopted.

---

**c-CR3 Environment & Sustainability Committee** (Refer minutes page 49)

REF PPM

5465/29.01

Submitting minutes of the Environment & Sustainability Committee meeting held on Wednesday, 6 February 2008.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 65/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

**RECOMMENDATION**

THAT recommendation Nos. 1 to 3 as detailed in the minutes of the Environment & Sustainability Committee meeting held Wednesday, 6 February 2008 be adopted.

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**COMMITTEE REPORTS**

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**c-CR4 Traffic Committee** (Refer minutes page 56)

REF	TE	107/23
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Submitting minutes of the Traffic Committee meeting held on Monday, 18 February 2008.

Council resolved at its meeting held 27 February 2008 as follows (vide MN 66/08):

*THAT this item be deferred to the Ordinary Meeting of Council to be held on Wednesday, 5 March 2008.*

**RECOMMENDATION**

THAT recommendation Nos. TC 1/08 to TC 22/08 as detailed in the minutes of the Traffic Committee meeting held Monday, 18 February 2008 be adopted.

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**COMMITTEE REPORTS**

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**MINUTES OF THE LEGAL COMMITTEE MEETING  
HELD ON WEDNESDAY 13 February 2008**

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*File No. 107/22*

<b>PRESENT:</b>	Clr M Murray (Chairman) (Arr 4.45pm) Clr G Lewis Clr P Yeo Clr P Tuddenham (Arr 4.45pm) Clr D Gair
<b>IN ATTENDANCE:</b>	Clr N Campbell-Jones Clr J Clark (left 4.45pm) Clr M King Mr M Hyde GM (Arr 4.50pm) Mr S Lee DEP Mr L Pawlak DCM
<b>APOLOGIES:</b>	Clr J Mauger Mr B Bilinsky

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*Clr Gair took the Chair for 45 minutes while Clr M Murray was absent.*

**1. Tree Orders (*Disputes Between Neighbours*) Act 2006**

In 2006 the Trees (*Disputes Between Neighbours*) Act 2006 was enacted. The Act allows the Land and Environment Court to consider proceedings launched by neighbours under this Act and to subsequently make orders. These orders are required to be noted on Section 149(2) Certificates under the *Environmental Planning & Assessment Act 1979* when Council is notified of such orders. These procedures have been put in place.

**RECOMMENDATION**

**THAT** Council choose not to become involved in enforcement actions pursuant to the *Trees (Disputes Between Neighbours) Act 2006*.

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**2. Refusal of new garage & pool at Lot 2 DP 1080318 Bibby's Lane, Werai (Orfali) 502/61; PN1759970; LUA07/1192**

The proposed garage is in addition to the previously approved dwelling (LUA07/0506) and will result in a single structure excessive in length and bulk which will not meet the objectives and guidelines of Council's DCP 53 – Siting, Design and Landscaping of Rural Developments. A conference will be on-site before a Commissioner of the Court on Wednesday 20 February 2008.

**RECOMMENDATION**

**THAT** the information be received and noted.

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**COMMITTEE REPORTS**

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3. **WSC ats Drummond Parmenter Pty Ltd (Ben Bhraque Pty Ltd – P Tomasetti) – 34 Berrima Road – Gibbons Road, Moss Vale**  
**502/62; LUA06/0011; PN1729600**

Appeal for deemed refusal of 4 lot subdivision at 34 Berrima Road, Moss Vale. Matter set down for a binding S.34 conference on site 9.30am Wednesday 5 March 2008.

**RECOMMENDATION**

**THAT** the information be received and noted.

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4. **Australian Lifestyle Corporation Pty Ltd ‘Capernwray,’ Moss Vale Road, Burradoo**  
**502/63; LUA06/1457**

Council tendered a Statement of Basic Facts and Contentions relating to suitability of the site for the development, and questioning deemed refusal for Seniors Living development application.

**RECOMMENDATION**

**THAT** the matter be further debated at this Council Meeting in Closed Committee.

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5. **Boen Boe Piggery (Zammit)** **03/0783, 502/8**

The Court has set a date for a callover on 10 March 2008, so Council has now formally receipted the development application, sent referrals to relevant Government Agencies and neighbour notified the latest application. Council will need to have progressed assessment of the development application by this time. This will be dependant upon agency responses.

**RECOMMENDATION**

**THAT** the information be received and noted.

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*Mr Les Pawlak, Manager Development Control who was in attendance at the meeting, declared a non-pecuniary interest in the following item, due to his previous commercial dealings in acting on behalf of the applicant, and left the room while the matter was being considered.*

6. **Norlex - Bundanoon Water Extraction** **PN1105400; 502/54; LUA07/1170; 06/1081**

Matter adjourned until application decided by the Land and Environment Court.

**RECOMMENDATION**

**THAT** the information be received and noted.

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**COMMITTEE REPORTS**

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**7. Tashonwok Pty Ltd (Eling Forest Winery) PN1701748, 5302/9**

Council has received a Court Attendance Notice – Tashonwok Pty Ltd (Eling Forest Winery) over Penalty Notice 7632968824 for unauthorised building work . Matter dismissed.

**RECOMMENDATION**

**THAT** the information be received and noted.

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**8. Terrigal Grosvenor Lodge Pty Ltd - 'Karrara' 502/59; PN979400, 06/1428  
Cnr Links Road & Moss Vale Roads, Burradoo**

Class One Appeal against refusal of development application 06/1428 for proposed Seniors Living development. Matter adjourned 5 February after a 2 day hearing. Applicant to lodge amended plans. Expected to be re-listed within the next two weeks.

**RECOMMENDATION**

**THAT** the information be received and noted.

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**9. Ghassibe (Rhodes Haskew) 502/48, PN1735320**

Land & Environment Court issued Orders 17 August 2007. The consultant acting on behalf of the applicant has been attempting to lodge a Section 96 application. Council staff returned the application, indicating that Council was not prepared to exercise its discretionary power under S.96AA of the *Environmental Planning & Assessment Act 1979* to assess and determine the application. This is due to the fact that a Court appointed noise expert was involved in the finalisation of the previous appeal.

**RECOMMENDATION**

**THAT** the applicant be advised again in writing that the Land and Environment Court is the appropriate consent authority to consider the proposed S96A application.

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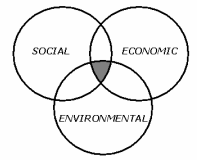
**10. 'ANNESLEY', Bowral – Excessive use of community facilities on site PN1753570; PN3200**

An Information Session has been organised for 19 March 2008 to deal with this item raised by Cllr Whipper at previous Council meetings.

**RECOMMENDATION**

**THAT** the information be received and noted.

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*Clr N Campbell-Jones declared a non-pecuniary interest in the following matter and left the meeting while it was being considered:*

**11. Truck Parking / Depots – Lot 206 DP 1105800 Ovington Road, Yerrinbool PN1105800  
(AB Crowe)**

Council has gathered further evidence relating to the usage of the above property for the purposes of truck parking. A development application was lodged on 16 January 2008 and is being neighbour notified. A report to the Services & Infrastructure Committee will be made when assessment is complete. A Penalty Notice has been issued on the owners of the business / property.

**RECOMMENDATION**

1. **THAT** the development application for Truck Parking be processed and reported to the Services & Infrastructure Committee for consideration.
2. **THAT** usage continue to be monitored for consideration as to whether further Penalty Notices should be issued.

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**12. Foldgarth Estate PN1389700; PN1389302; PN1389600; 04/1127**

Clr Murray requested Clr Mauger to provide his explanations in relation to previous comments made in relation to the subdivision at the Foldgarth Estate. Clr Mauger advised he would do so at the next Legal Committee meeting.

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**13. Compliance Issues 5210/1**

Current active Compliance Register is attached

**RECOMMENDATION**

**THAT** the information be received and noted.

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There being no further business, the meeting closed at 5.30pm

**MINUTES OF THE MOSS VALE LIVESTOCK SELLING CENTRE  
STRATEGIC ADVISORY BOARD  
HELD FRIDAY 7 DECEMBER 2007**

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*File: 7170/01*

**COMMENCED:** 10.50am (following a site inspection from 10am)

**PRESENT:** Clr Duncan Gair (Chairman)  
Clr Nick Campbell-Jones  
Clr Jim Mauger  
Peter Bray  
Geoffrey James  
Anthony Guinness

**ALSO PRESENT:** Peter Byrne – Parks & Property  
Andrew Murdoch – Saleyard Manager  
Tannia Andrews – Administration Officer

**APOLOGIES:** Mike Hyde

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Clr Gair opened the meeting at 10.50am

**MINUTES OF THE PREVIOUS MEETING**

In the *Throughput Update* “an increase in comparison to last year’s figure of 11,000” to be deleted.

**RECOMMENDATION 1:**

THAT the minutes of the previous meeting held on the 12 October 2007 be accepted as a true and accurate record after the above change is made.

**BUSINESS ARISING**

Correspondence Received

Nil

Correspondence Outgoing

Nil

A welcome letter is to be sent to Shute Bell and a Christmas letter sent to Agents and canteen staff.

## **STATUS REPORT**

### ***Throughput Update***

The Saleyard Manager reported that the Selling Centre was currently above projected budget by approximately 2000 head and sales are moving along well. It was expected to slow down toward Christmas but a busy Autumn was anticipated.

The Saleyard Manager attributed the increased throughput to soft flooring and over-all vendor satisfaction with the Centre.

The importance of promoting the improvements and higher prices obtained at the Saleyard was stressed.

An advertising strategy and timetable to be brought to the next Board meeting.

### ***Works Update***

A site inspection of the Selling Centre took place prior to the Board meeting.

Commendations to the Saleyard staff for the presentation and condition of the Selling Centre.

A concept plan was given to Board members and discussed.

A proposal to remove old yards in the north western corner to allow for B-Double access and the installation of new ramps, possibly hydraulic, was reviewed. It was decided to obtain costings and feedback from agents and carriers prior to approval. The Saleyard Manager to arrange an information session with stakeholders to explain the proposed works and acquire feedback.

There was concern raised over proposed landscaping along the south western boundary. The concept plan proposes deciduous trees, however, Board members suggested planting a species that would create a windbreak for the lower paddocks such as pittosporum or leylandii. The Parks Supervisor will inspect the site and make recommendations to be brought back to the next Board meeting.

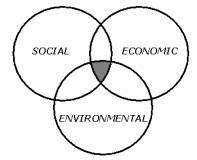
Quotes for new sheds were presented to the Board. A 200m<sup>2</sup> shed standing 4.2m high was \$30,000. In comparison, it would cost approximately \$30,000 to relocate used sheds totalling 160m<sup>2</sup> from Robertson and Burrawang. The Board agreed that a new shed was the best way to proceed.

It was decided that the height of the quoted shed was insufficient and a revised quote was requested for a shed with a minimum height of 4.5m. The new quote should also include costs for power and water supply to the shed.

Agreement was reached that a specialist consultant was not required to assist with the Masterplan for the Moss Vale Livestock Selling Centre.

### ***Silage***

Soil tests for the hay cutting sites have been reviewed and recommendations were made to add lime. Additional areas for silage at East Bowral, Burrawang Cemetery and land on the corner of Suttor Road and Moss Vale Road were suggested and will be assessed. The Suttor



Road site requires a clean up prior to being utilised for silage. This can be done by a contractor and the Board approved up to \$1,000 for this to be carried out.

**RECOMMENDATION 2:**

**THAT** up to \$1000 be allocated to employ a contractor to clean up the Suttor Road site prior to being utilised for silage

*Mulch*

It was decided to advertise for Expressions of Interest for the removal of the soft-flooring mulch with tenders sent to some of the larger landscaping companies within the area. A report on the result of the tender process to be brought back to the next Board meeting.

*Administration Overhead Allocation*

The Civic Services Coordinator advised that the Administration Overhead Allocation was payment for services provided by Council, i.e. Human Resources, IT, Finance etc. A breakdown of the charge was not given by Council's Finance Department, however, it was reported that the fee would be reviewed in the next 12 months.

Concerns were raised by several Board members that a breakdown was required and that the amount charged was inaccurate for the Selling Centre where only two permanent staff were employed. A formal response was requested from the Finance Manager.

*Truck Wash Facility*

An Avdata cost comparison for the Truck Wash facility was reviewed. The Board agreed to advertise the addition of a booster to the Truck Wash and once in place, raise the fee to 40c per minute + GST.

Truck wash fees are to be reviewed on an annual basis with all other Saleyard Fees and Charges.

It was noted that upgrade work is required for the dam with the possible installation of a separator pit.

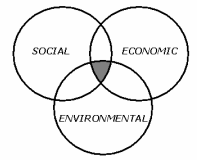
*Scanning Fees*

A reflection of the true scanning costs including time analysis, maintenance, life expectancy and replacement of equipment was requested in order to obtain an accurate scanning fee.

**ANNUAL REPORT**

The Draft Annual Report was discussed and minor changes made. The financials need to be evaluated prior to the Annual Report being sent to Council.

The Mission Statement and Vision Statement are to be reviewed for the 2007/08 Annual Report.



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## **GENERAL BUSINESS**

### ***Proposed Change to Staff Structure***

A proposal was brought to the Board to replace the Computer Operator and Cleaner positions with a three-day per week staff member to support the current two Saleyard Staff. The Civic Services Coordinator reported that Parks and Property staff are currently required to supplement Saleyard Staff when needed. With only two permanent staff at the Saleyards it is difficult to cover RDOs and sick days and fulfil the operational requirements of the facility. The proposed position will include computer operations, manual work and cleaning. The extra staff member on sale days will allow the Saleyard Coordinator to better supervise the site.

### **RECOMMENDATION 3:**

THAT the Computer Operator and Cleaners positions be replaced by a permanent, three-day per week staff member to assist current Saleyard staff.

### ***Online Selling***

The Saleyard Manager reported that for a cost of approximately \$3,000 a website for the Moss Vale Livestock Selling Centre could be up and running within two weeks.

Online selling may not be viable due to the expense of running the site, however, a report and cost analysis was requested for the next meeting to enable further discussion.

### **RECOMMENDATION 4:**

THAT \$3,000 be allocated to establish a web site for the Moss Vale Livestock Selling Centre.

### ***Country Hour***

The Saleyard Manager reported that his discussion with the National Livestock Reporting Service (NLRS) indicated that they were not interested in reporting from Moss Vale Livestock Selling Centre.

The matter is to be pursued further with a formal letter sent to NLRS advising the interests of the Selling Centre and requesting feedback on ways to feature on Country Hour. The possibility of employing someone to report from the Selling Centre was noted.

Next meeting to be held 15 February 2008.

**Meeting Closed at 12:30pm.**

**STATUS TABLE**

<b>Item</b>	<b>Date</b>	<b>Comment</b>	<b>Status</b>	<b>Actioned</b>
Country Hour	3 Aug 2007	Formal letter to be sent to the National Livestock Reporting Service.	Saleyard Manager to organise letter.	Saleyard Coordinator
Hay Cutting	3 Aug 2007	Area to be used for silage on the Corner of Suttor and Moss Vale Roads requires cleaning up. Possible new sites include East Bowral and Burrawang Cemetery.	Lime to be added to current sites. New sites to be investigated. Contractor to be employed to clean up Suttor Road site.	Saleyard Coordinator
Online Selling	3 Aug 2007	Online selling may not be feasible due to high costs associated with live feed.	Proceed with establishment of website. A report on costs associated with online selling to be brought to the next Board meeting.	Saleyard Coordinator and Anthony Guinness
Truck parking at Selling Centre	12 Oct 2007	Cost analysis and feedback from agents and carriers to be obtained prior to proceeding.	Saleyard Manager to arrange information session with stakeholders.	Saleyard Coordinator
Sheds	12 Oct 2007	Quote required for new shed with a minimum height of 4.5m	Quote to be brought to next Board meeting.	Saleyard Coordinator
Expenditure Item on Fees and Charges	12 Oct 2007	Breakdown of Administration Overhead Allocation and Parks Administration Contribution	Formal response on breakdown of contribution fees to be requested from the Finance Manager.	Parks & Property Manager
Annual Report	12 Oct 2007		Finalising financials prior to Report being sent to Council.	Completed
Review of Fees and Charges	12 Oct 2007	Reflection of true scanning costs required including time analysis, maintenance, life expectancy and replacement of equipment.	Saleyard Manager preparing cost analysis.	Parks & Property Manager
Soft Floor sale	12 Oct 2007	Expressions of Interests sought for removal of soft flooring.	Report on response for Expressions of Interest to be brought to next Board meeting.	Saleyard Coordinator
Advertising	7 Dec 2007	Advertise to promote improvements and higher prices obtained at Moss Vale.	Advertising strategy to be brought to the next Board meeting.	Parks & Property Manager
Landscaping	7 Dec 2007	Landscaping to provide a windbreak at rear of Selling Centre	Parks Supervisor to inspect the site and make recommendations for next Board Meeting.	Parks & Property Manager
Proposed additional staff member	7 Dec 2007	Computer Operator and Cleaner positions replaced with 3-day per week staff member to assist current Saleyard staff.	Recommendation from Board to go to Council for approval.	Parks & Property Manager

**MINUTES OF THE ENVIRONMENT & SUSTAINABILITY COMMITTEE MEETING  
HELD ON THE 6 FEBRUARY 2008 IN THE GIBRALTAR ROOM**

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*File No: 5465/29.01*

**PRESENT:**

Clr. Larry Whipper (Chair)  
Clr. Jim Clark  
Tony Hill – Community Representative  
Jan Hainke – Community Representative  
Pam Cooper – Community Representative  
Jane Lemann – Community Representative  
Tony Paull (1:30pm) - HNCMA

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**IN ATTENDANCE:**

Eddie Anderson – Natural Resources Co-ordinator (NRC)  
Stuart Chadwick – Bushland Project Officer  
Greg Bray – Natural Resources Supervisor  
Belinda Rowe – Bushland Project Officer  
Tracey Poulter (part only) – Environmental Protection Officer  
Scott Lee (part only) – Director of Environment and Planning  
Les Pawlak (part only) – Development Assessment Manager  
Mark Pepping (part only) – Strategic Planning Manager  
Andrew De Montemas (2:25pm) – Environment and Health Manager  
Tannia Andrews – Administration Officer  
Jenny Platt

**APOLOGIES:**

Lori McWhirter – Department of Primary Industries  
Pat Hall – National Parks & Wildlife Service

The meeting commenced at 1:10pm

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**Apologies**

Were received and noted.

**MINUTES OF THE PREVIOUS MEETING HELD ON THE 5 DECEMBER 2007**

**RECOMMENDATION 1:**

THAT the Minutes of the Environment Committee meeting held on the 5 December 2007 be accepted as a true and accurate record .

Moved by Tony Hill

Seconded by Pam Cooper

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## **MATTERS ARISING FROM PREVIOUS MINUTES**

### **1. Flora & Fauna Assessment Guidelines**

Tracey Poulter ran through changes made to the draft Flora and Fauna Assessment Guidelines for Development Applications. The Guidelines will compile information in one, readily available location and give a break down of what is required in development application and why, resulting in a better quality Environmental Assessment. It was stressed that Council is not re-writing the rules for Development Applications, simply bringing it together in an easy to understand document. These guidelines will be available to applicants in the future and Development Control Plans can make reference to this document and guide people to use it when submitting applications.

A fact sheet will be developed based on the draft Flora and Fauna Assessment Guidelines and be brought to a future Environment and Sustainability Committee meeting for approval. The fact sheet is to include information regarding compliance and penalties and make reference to appropriate legislation.

Need to review whether Noxious Weeds can be added to the Guidelines and a tick box regarding noxious weeds included in the checklist.

There was concern raised in regard to the "optional criteria" listed in the Guidelines. It was decided to remove the importance column all together.

It was asked that the listed locations of koala habitats in the Shire be broadened to include the entire Shire.

It was requested that the document be reduced in size by referring to the Biodiversity Strategy rather than including sections of it. In addition, members of the Committee enquired as to whether the Guidelines could be linked to the LEP. The Environmental Protection Officer and Strategic Planning Manager to investigate further.

Comments on the Draft Flora and Fauna Assessment Guidelines are to be forwarded to the Environmental Protection Officer by the end of February.

### **2. WOFE Beyond 2008**

A working document was distributed for future WOFE projects for the next 5 years. Advised that the budget needs further amendments. WOFE projects will be submitted to Council in March and a subsequent submission sent to the Minister.

Committee members were requested to review the document and provide feedback to the NRC by the end of next week. Document must be finalised within the next 2 weeks.

### **3. Draft LEP – absence of Northern Corridors**

There was a presentation on the Draft LEP Zones by the Strategic Planning Manager.

Jenny Platt queried the omission of the Bargo – Woronora Plateau linkages in the Draft LEP. The Strategic Planning Manager was unaware of the submission made by the DECC and will look into the matter further.

Jane Lemann requested Council's bushland reserves be shown on the Environmental Overlay. The Strategic Planning Manager advised that it would be possible to identify reserves on the Overlay. It was also requested that State Conservation areas be altered from Zone E2 to Zone E1. It was advised that members make formal submissions to Council for alterations and amendments.

**RECOMMENDATION 2:**

THAT identified local corridors and bushland reserves be included in the Environmental Overlay of the Draft LEP in addition to DECC corridors identified in 2006 (Regional Biodiversity Corridors)

Moved by Jane Lemann      Seconded by Jan Hainke

The Environment Committee thanked the Strategic Planning team for the effort put into the Draft LEP.

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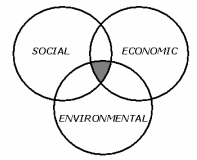
**FEEDBACK FROM COUNCIL MEETING**

Nil

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**NEW PROJECTS**

- 1. Conserving Endangered Ecological Communities – Southern Highlands Shale Woodland*  
Support was requested for the conservation of 3.6ha of Southern Highlands Shale Woodland on Lot 10 DP 860299 Illawarra Highway, Moss Vale. Funding of \$9,995 will be used for stock-proof fencing, installation of an off-creek water trough and planting of native plants. An additional \$240 pa will be allocated to ongoing maintenance. CMA grant funded.
  - 2. Conservation of Endangered Ecological Communities – Southern Highlands Shale Woodlands.*  
Support was requested for the conservation of Southern Highlands Shale Woodland on Lot 7 & 9 DP 805624 and Lot 4 DP 805624 Canyonleigh Road. Funding of \$10,450 will be used for fencing material and herbicide. CMA grant funded.
  - 3. Conservation of Endangered Ecological Communities – Robertson Basalt Tall Open Forest.*  
Support was requested to protect and conserve 2.5ha of Robertson Basalt Tall Open Forest on Lot 3 DP 711195 Cnr Illawarra Hwy & Burrawang Station Lane, Burrawang. Funding of \$8,927.50 will be used for fencing, revegetation and herbicide with external grant funding.
  - 4. Conservation of Endangered Ecological Communities – Robertson Basalt Tall Open Forest and Mt Gibraltar Forest.*  
Support was requested for the conservation of Robertson Basalt Tall Open Forest and Mt Gibraltar Forest on Lot 1 DP 1003692, Springhill Road, High Range. Funding of up to \$8,500 will be used for bush regeneration works.
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5. *Conservation of Endangered Ecological Communities – White Box Yellow Box Gorge Woodland*

Support was requested for the conservation of White Box Yellow Box Gorge Woodland on Lot 1 & 2 DP 251401, Wombeyan Caves Road, Bullio. Funding of \$10,005 will be used for fencing, revegetation and herbicide.

6. *Conservation of Endangered Ecological Communities – White Box Yellow Box Gorge Woodland*

Support was requested for the conservation of White Box Yellow Box Gorge Woodland on Lot 1 & 2 DP 251401, Wombeyan Caves Road, Bullio. Funding of \$2,792.50 will be used for fencing.

**RECOMMENDATION 3:**

THAT the above Project Works proposals be approved and funded from external grant funding and a Vegetation Conservation Agreement be entered into with the property owners.

Moved by Tony Hill    Seconded by Clr Jim Clarke

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**MONTHLY ACTIVITY REPORT**

Activity report for November and December was distributed, discussed and noted.

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**MONTHLY EXPENDITURE REPORT**

Expenditure report for November and December was distributed, discussed and noted.

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**GENERAL BUSINESS**

**Agapanthus**

Jane Lemann requested that Council run a media article to have agapanthus in the Shire dead-headed by April, prior to them going to seed. It was advised that Council are unable to demand people in the Shire stop growing Agapanthus, however, her request to advise the community to behead Agapanthus could be included in a section of the Council page in the local newspaper with Environmental tips.

**Southern Coalfields Enquiry**

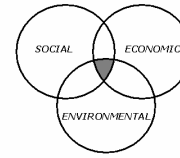
Council's submission to The Southern Coalfields Enquiry to be brought to the next meeting.

Next meeting to be held Wednesday 9 April 2008 at 1:00pm. Meeting closed at 3.10pm



## ORDINARY MEETING OF COUNCIL

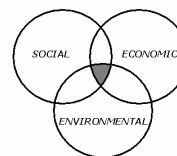
held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 5 March 2008



## COMMITTEE REPORTS

Project & location	Work description / progress/ comments	Cost \$	Status
Berrima - Stonequarry walk & Berrima Weir Reserve.	Removed seeding Chilean needle grass from church ground adjacent to regeneration site Planted 280 native grasses and weeded blackberry nightshade, flowering wild mustard and thistles	4220	ongoing
Hilltop Bushcare Group	Maintenance weeding Agapanthus, Patterson's Curse, Trumpet Flower and Honey Suckle.	100	complete
Gibbergunyah Creek Bushcare Group	Worked with community volunteers poisoning privet, honeysuckle, gorse and blackberries	900	ongoing
Mt Gibraltar Reserve	Worked with community volunteers, Site assessment, signage audit and weeded at each sign site,	300	ongoing
Chinamans Creek Bushcare	Follow up weed control, planted another 80 mixed native grasses, erosion control on creekbanks	300	ongoing
Moss Vale Landcare Group- Cosgrove Park	Worked with volunteers: planted native grasses and shrubs; Sprayed around planting, plant guarded native grasses	1200	ongoing
Oldbury Rd. Bushcare	Worked with volunteers with planting 100 shrubs and grasses	200	ongoing
Penrose Bushcare	Chipped 8 cubic metres pines and removed chip from site	450	ongoing
Glow Worm Glen Bushcare Group	Hand weeded blackberry, banana passion fruit, drilled willows, planted trees.	150	ongoing
Burrawang Bushcare	Poisoned privet, hand weeded around plantings, sprayed honeysuckle;	100	ongoing
Currubunda Bushcare	Chainsaw hawthorn, cut and painted hawthorn, cotoneaster, privet and chipped woody weeds at Jordan's Crossing Reserve, plated 24 Acacia melanoxylon at Currubunda Wetland, sprayed kikuyu, blackberry	500	ongoing
Welby Bushcare	Primary weeding privet and blackberries along the creek lines around old landfill.	250	ongoing
Youth Landcare	Sprayed in and around planting, controlled woody weeds in surrounds	300	ongoing
Hammock Hill Bushcare Group	Maintenance weeding, mulching of 5m <sup>3</sup> and planting of 40 mixed native shrubs , sprayed blackberry, chipped thistles, sprayed annuals and exotic grasses	420	ongoing
Bowral Urban Landcare	Sprayed around riparian planting at Rose St	175	
Feral Animal Control	Moss Vale Rural Lands Protection Board completed feral animal control in Mt Alexandra Reserve	6000	complete
Iron Mines Creek	Completed follow up bush regeneration in Iron Mines Creek.	5800	complete
River Bend reserve, Berrima	Completion of secondary weed control works along riparian zone of Wingecarribee River,	5000	ongoing
Paddys River	Control remaining Honey Suckle and Blackberry through out wetland	7300	ongoing





**COMMITTEE REPORTS**

Project & location	Work description / progress/ comments	Cost \$	Status
Environmental Management system	Review of the requirements of the Environment Management system has been undertaken against the QBL assessment outcomes and the discussed requirements for the 2008 – 2011 Management plan. This is to ensure that the elements still to be progressed are in line with Councils' future targets and objectives.	500	ongoing
Regional Litter Investigation Squad (RID squad)	<p>In November/December 2007 initiated investigations into a total of 33 incidents of which I have closed 24 and are continuing to investigate the remaining 9 incidents. Of these 33 incidents 23 of them came via area patrols, 8 were referrals via direct phone and 2 were council referrals via email. The type of waste investigated is as follows. Eight (8) involved litter, seven (7) were other waste, six (6) involved household waste, five (5) involved vegetation, three (3) were construction / demolition waste, two (2) were excavated soil, one (1) was industrial waste and one (1) was a cigarette butt.</p> <p>During the months of November and December 2007 continued to investigate four major incidents. One involves the transporting of 450 – 500m<sup>3</sup> of construction/demolition waste which has been illegally dumped on private property.</p> <p>The second involves the transportation of large quantities of soil (in excess of 2,500 tonnes) from a development site to a number of sites within the shire. A Clean Up Notice was issued in early August 2007 to a construction company in relation to this matter and representations have been received from a solicitor in relation to this matter.</p> <p>The third involves approximately 100 – 110 tonnes of concrete, bricks and tiles being transported from two demolition sites within the shire to private property owned by a local resident. In relation to this matter a 'Clean Up Notice' has been issued to this person.</p> <p>The fourth matter involves the transportation and storage of approximately 3,450m<sup>3</sup> of asbestos contaminated soil. In relation to this matter I'm awaiting a reply from a notice which was sent to a transport company believe to be involved in this matter.</p>	2200	ongoing

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**MINUTES OF THE TRAFFIC COMMITTEE MEETING  
HELD ON MONDAY, 18 FEBRUARY 2008**

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*File 107/6*

**COMMENCING AT: 10.15am**

**PRESENT:** Clr Duncan Gair (Chairperson)  
Mr Danny Benedetti, Roads & Traffic Authority  
Snr Constable Phil Pollard, Goulburn LAC  
Mr John Brew (Representing Member for Goulburn, Pru Goward)  
Mr Frank Perger, Traffic Engineer  
Ms Charmaine Cooper, Road Safety Officer  
Mr Mark Roebuck, Roads & Traffic Manager (part of meeting)  
Mr Les Pawlak (Development Control Manager)  
Ms Tracey Greenacre, Secretary

**ALSO  
PRESENT:** Clr Jim Mauger  
Frank Iacono (Additional Item 1)  
Geoff Wood (Additional Items 1 & 2)

**APOLOGIES:** Nil

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**1 REPORT OF THE TRAFFIC COMMITTEE MEETING HELD 22 OCTOBER 2007**

REF	TE	107/6
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Reporting on the Traffic Committee meeting held on 22 October 2007.

Note: Consideration of the Minutes from the Traffic Committee meeting was deferred from the Council Meeting held on 28 November 2007 to 12 December 2007.

**TC 1/08**

**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 2/08**

#### **RECOMMENDATION**

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

- DOB in a Hoon program
  - 2006 Crash Data Analysis
  - Bike Plan consultation commenced
- 

## **3 SPEED CAMERA IN ROBERTSON**

REF. TE	7411
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Requesting the installation of a speed camera on Hoddle Street in Robertson.

Note: The Roads & Traffic Authority advised that the speed zone on Hoddle Street (HW25) through Robertson is to be reduced from 60 to 50 km/h.

The Roads and Traffic Authority has installed flashing lights for the 40 km/h school speed zone in time for the 2008 school year and to date results have been positive.

### **TC 3/08**

#### **RECOMMENDATION**

THAT the Police continue to carry out surveillance of vehicle speeds on Hoddle Street (HW25) through Robertson.

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**COMMITTEE REPORTS**

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**4 PARKING ISSUES ON WESTWOOD DRIVE, BOWRAL**

REF.	TE	7460/8, 3200, RD1628
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Requesting measures to improve parking congestion in Westwood Drive, Bowral.

Note: There is insufficient on-site parking to cater for the demand created by businesses and events at Annesley which are promoted for use by the general public. Local residents allege that these activities do not comply with the original conditions of consent and that safety and amenity are compromised by the often large numbers of vehicles parked in Westwood Drive and When Close. The residents also advise that the parking demand is increasing over time.

**TC 4/08**

<b>RECOMMENDATION</b>
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1. THAT Council's Development Assessment Branch investigates Annesley's compliance with its development consent conditions, investigates any land available for parking within Annesley and reports to the next Traffic Committee meeting;
2. THAT Council Rangers/Police be requested to conduct regular enforcement when resources allow;
3. THAT Council liaises with residents to discuss the possibility of restricting parking on one side of When Close and report back to the next Traffic Committee meeting.
4. THAT it be noted that if further development occurs within Annesley then additional parking be conditioned

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**5 TRAFFIC AND PEDESTRIAN SAFETY AT WINGELLO**

REF.	TE	7460/36, RD 7636 0130
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Reporting on traffic and pedestrian safety at Wingello.

**TC 5/08**

<b>RECOMMENDATION</b>
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1. THAT the hold lines on Railway Parade, Wingello at the rail crossing be remarked in long life material;
2. THAT the "Give Way Ahead" warning signs on Railway Parade be replaced with pictorial warning signs;
3. THAT the vegetation near the southern "Give Way" sign be trimmed.

**6 DELINEATION AT MOSS VALE ROAD/KANGALOON ROAD/FUNSTON STREET  
ROUNDBOUT IN BOWRAL**

REF.	TE	7451, RD8260, RD8261
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Reporting on a night time inspection of the roundabout at the intersection of Moss Vale Road, Kangaloon Road and Funston Street in Bowral.

**TC 6/08**

**RECOMMENDATION**

THAT the Roads and Traffic Authority remarks the existing line marking at the roundabout at the intersection of Moss Vale Road, Kangaloon Road and Funston Street in Bowral

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**7 TRAFFIC PRIORITY AT OLD SOUTH ROAD AND OLD HUME HIGHWAY, ALPINE**

REF.	TE	7460/1, RD1587, RD4111 0100
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Reporting on traffic priority at the junction of Old Hume Highway and Old South Road, Alpine.

**TC 7/08**

**RECOMMENDATION**

THAT a "Give Way" sign and markings be installed on Old South Road at its junction with Old Hume Highway in Alpine AND THAT barrier lines be marked for a distance of 30 metres on Old South Road.

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.....Cont'd

Cont'd.....

**8 PARKING RESTRICTIONS IN MOSS VALE**

REF.	TE	7460/26
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Requesting changes to parking restrictions in Moss Vale.

**TC 8/08**

**RECOMMENDATION**

1. THAT the current two hour parking time limit in Tuckerbag Carpark be policed;
  2. THAT additional Ranger resources be provided to police the carparking in Moss Vale;
  3. THAT Council investigates restricting half of the Elizabeth Street carpark (north of the Police Station) to three hour parking and report back to the Traffic Committee;
  4. THAT the request to increase the parking restrictions in Argyle Street from one to two hour parking is not supported.
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**9 TRAFFIC ARRANGEMENTS FOR WOMENS INTERNATIONAL ASHES TEST**

REF.	TE	7420/6, 1690/1
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Reporting on traffic arrangements for the Women's International Ashes Test.

**TC 9/08**

**RECOMMENDATION**

THAT permission be granted to hold the Women's International Ashes Test on 15-18 February 2008 at Bradman Oval subject to the satisfactory completion of all requirements detailed in the Roads and Traffic Authority's Guide to Traffic and Transport Management for Special Events for a class 2 event.

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**10 MEDIAN ON ELIZABETH STREET, MOSS VALE**

REF.	TE	rd 3345, LUA05/0092
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Requesting a reduced median width in Elizabeth St Moss Vale for the Clarence House Land Use Application.

**TC 10/08**

**RECOMMENDATION**

1. THAT a 20 metres long and 0.9 metres wide median be constructed centrally on Elizabeth Street to prevent right turns into the building at 9 Clarence Street, Moss Vale;
  2. THAT the barrier lines and chevron markings be marked on each approach to the median to direct the through traffic to the left of the median, noting that the existing barrier lines on Elizabeth Street are not placed centrally;
  3. THAT "Keep Left" signs be erected on each end of the median
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**11 NO RIGHT TURN FROM BOWRAL STREET INTO STATION STREET, BOWRAL**

REF.	TE	7460/8, RD1519, RD3204
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Reporting on the need to temporarily ban the right turn from Bowral Street into Station Street, Bowral.

**TC 11/08**

**RECOMMENDATION**

THAT the right turn from Bowral Street into Station Street, Bowral be banned until the proposed roundabout at this junction is in place.

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## **12 PARKING RESTRICTIONS IN STATION STREET, BOWRAL**

REF.	TE	7460/8
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Requesting parking restrictions in Station Street south of Bowral Street, in Bowral.

Note: The construction of a roundabout at the junction of Bowral and Station Streets is a condition of consent for "The Intersection" development.

### **TC 12/08**

#### **RECOMMENDATION**

THAT no action be taken at present to signpost two hour parking on the eastern side of Station Street south of Bowral Street in Bowral AND THAT the matter be reviewed following the installation of the roundabout at the junction of Bowral and Station Street.

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## **13 THREE HOUR PARKING RESTRICTIONS IN OXLEY MALL CARPARK, BOWRAL**

REF.	TE	7470/1, 7460/8, 1602/3
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Requesting three hour parking restrictions in part of Oxley Mall Carpark in Bowral.

### **TC 13/08**

#### **RECOMMENDATION**

1. THAT the Traffic Committee is reluctant to support this request and submits the matter to Council to determine the request to increase the time limit from two to three hours in the part of Oxley Mall Carpark bounded by Gloria Jeans Coffee, Village Lane and Boolwey Street;
  2. THAT Council notes that should the time limit be changed then new signposting (estimated cost \$2000) will be needed at the three entries to Oxley Mall Carpark and in the changed section to make the signs enforceable;
  3. THAT Council notes the loss of turnover of parking spaces resulting from the change from two hours to three hours;
  4. THAT Council notes that a three hour parking restriction is harder to police and will only allow one parking patrol of the area per day;
  5. THAT Council notes that a lack of consistency of carpark time limits is undesirable and will lead to more confusion by the public.
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#### **14 WINGECARRIBEE CRASH PROFILE SUMMARY FOR 2006**

REF.	TE	7410/3
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Road Safety Officer reporting on the crash profile summary in Wingecarribee Shire for 2006.

#### **TC 14/08**

#### **RECOMMENDATION**

THAT the information be received and noted

#### **15 'MITTAGONG CENTRAL' CNR STATION & REGENT STREETS, MITTAGONG**

REF:	LP	LUA07/0902
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Reporting on the proposed parking restrictions, on-street conditions and pedestrian facilities at 'Mittagong Central'.

#### **TC 15/08**

#### **RECOMMENDATION**

1. THAT spaces 4 to 6 on the northern side of Regent Street adjacent to the development be signposted as Taxi Zone 6pm-6am and Loading Zone 6am-9am;
2. THAT the two accessible parking spaces shown on the southern side of Regent Street be moved to spaces 1 and 2 on the northern side adjacent to the development AND THAT these spaces be marked at least 7m long and provided with suitable kerb access ramps and blue accessible parking space logos;
3. THAT the bus zone on the northern side of Regent Street extending past Winifred West Park be shortened so that it does not front not private residences;
4. THAT the outline of all parking spaces on Regent Street associated with the development be marked;
5. THAT the pedestrian crossings shown on the plan are not supported as there are insufficient volumes of traffic and pedestrians at these locations to satisfy the warrant for a marked pedestrian crossing;
6. THAT the installation of a "shared pedestrian / car zone" shown on the plan in Regent Lane is not supported unless Regent Lane is redesigned with suitable traffic calming devices, is made pedestrian friendly and the overall plan is consistent with a 10 km/h speed environment;

.....Cont'd

*Cont'd.....*

7. THAT the turning path for heavy vehicles and buses exiting Church Lane onto Regent Street be checked to ensure that the proposed kerb extension in Regent Street does not restrict vehicles turning left or right;
  8. THAT the “new driveway crossing by others” on the southern side of Regent Street be constructed by the applicant;
  9. THAT street lighting be provided in accordance with the Australian Standard for all the proposed on-street parking provided in Regent Street for the development;
  10. THAT the parallel parking spaces 37 to 41 on the southern side of Regent Street opposite Albion Street be signposted as “No Stopping” to allow westbound traffic on Regent Street to pass a vehicle waiting to turn right into Albion Street AND THAT these five spaces be relocated further east on the southern side of Regent Street;
  11. THAT it is to be noted that the parking plan incorrectly shows the distance between the existing kerbs on Regent Street in the vicinity of Albion Street as 12 metres AND THAT widening of the pavement will be necessary to provide a parking lane on the southern side of Regent Street;
  12. THAT the concrete footpath to be constructed on the southern side of Regent Street be 2.5 metres wide;
  13. THAT all roadworks, lighting, signs and markings be installed at the applicant’s cost.
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**16 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 16/08**

**RECOMMENDATION**

THAT the next Traffic Committee meeting be held in the Joadja Room at 9.30am on Monday 31 March 2007.

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**ADDITIONAL ITEMS**

**ADDITIONAL ITEM 1**

**DEMOLITION OF THE 'OLD POT FACTORY' AND ERECTION OF NEW COMMERCIAL DEVELOPMENT**

REF: MDC	LUA06/0822
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Reporting on a development application for the demolition of existing retail premises (Old Pot Factory) and erection of a new commercial development at Lot 14 Sec 1 DP 793, Lot 1 DP 1036857, Lots 1-2 DP 1078394, Old Hume Highway, Braemar.

Note: The Traffic Committee observes the lack of future planning with this development and that it was not referred to the Traffic Committee prior to Council approval being granted. The inconsistent referral of traffic generating developments to the Traffic Committee leads to future traffic problems that should be solved at the conditioning stage and additional demands being placed on limited Council resources.

**TC 17/08**

**RECOMMENDATION**

1. THAT it be noted the optimal solution to providing safe vehicular and pedestrian access for the residents of Badgery and Biggera Streets is to create a public road from Biggera Street to the proposed traffic signals at the junction of Isedale Road and the Old Hume Highway through the Old Pot Factory;
2. THAT Council approaches the owner of the Old Pot Factory to dedicate an easement for a public road with a view to acquiring private property through to Biggera Street and ultimately constructing a public road;
3. THAT it be noted that the alternative of two closely spaced sets of coordinated traffic signals on the Old Hume Highway at Badgery Street and Isedale Road is undesirable, may not be feasible and is not the preferred option of the Roads and Traffic Authority.

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## **ADDITIONAL ITEM 2**

### **CHANGES TO SEPP 11 – TRAFFIC GENERATING DEVELOPMENTS**

REF.	TE	5320/11
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Reporting on changes to SEPP 11 – Traffic Generating Developments

Note: SEPP 11 – Traffic Generating Developments has been repealed. The planning provisions previously in SEPP 11 have been updated and carried over into the Infrastructure SEPP.

#### **TC 18/08**

<b>RECOMMENDATION</b>
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THAT the Roads & Traffic Authority liaises with Council regarding to the changes to SEPP 11 and report back to the next Traffic Committee meeting.

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## **ADDITIONAL ITEM 3**

### **PARKING RESTRICTIONS OUTSIDE BOWRAL HIGH SCHOOL**

REF.	TE	1505/2, 7460/8
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Requesting parking restrictions outside Bowral High School.

#### **TC 19/08**

<b>RECOMMENDATION</b>
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THAT a two-car wide, five minute parking zone be signposted on the western side of Aitken Road outside the entrance to Bowral High School.

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**ADDITIONAL ITEM 4**

**SIGNPOSTING SCHEME FOR THE “ILLAWARRA FLY” TREE TOP WALK**

REF.	TE	7850, 7415/4
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Reporting on the tourist signposting plan for the Minnamurra Rainforest, Jamberoo Recreation Park and the Tree Top Walk.

**TC 20/08**

**RECOMMENDATION**

THAT Council notes that tourist signposting is proposed for the Minnamurra Rainforest, Jamberoo Recreation Park and the Tree Top Walk.

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**ADDITIONAL ITEM 5**

**TRAFFIC SIGNALS AT BOWRAL ROAD AND BESSEMER STREET MITTAGONG**

REF.	TE	7456
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Reporting on the proposed signal phasing improvements at the intersection of Bowral Road and Bessemer Street, Mittagong.

Note: The Roads & Traffic Authority has investigated a number of options to improve road safety at the above intersection. The number of phases at the signals is being increased from two to four including the following changes:-

- There will be an exclusive right turn bay from Bowral Road into Bessemer Street towards the railway underpass;
- Each approach on Bessemer Street will have a separate green phase;
- A fourth pedestrian crosswalk will be installed across Bowral Road west of Bessemer Street.

**TC 21/08**

**RECOMMENDATION**

THAT the information be received and noted.

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**ADDITIONAL ITEM 6**

**ILLAWARRA HIGHWAY – PROPOSED STREET NAME SIGN UPGRADE**

REF.	TE	7415/4, RD8025
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Reporting on the proposed minor rural road street name sign upgrade for the Illawarra Highway.

**TC 22/08**

**RECOMMENDATION**

THAT Council notes the Roads & Traffic Authority proposes to upgrade the street name signs for all the rural side road junctions along the Illawarra Highway.

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NEW REPORTS FOR THIS MEETING

ENVIRONMENT & PLANNING DIVISION

o-EP1 Scottish Arms' Boardman Road, Bowral

REF: DEP

LUA07/1359

Reporting on a proposal for a change of use from a 'Bistro and associated facilities' to a 'Hotel' for the Scottish Arms located at Lot 2 DP 1104268 Boardman Rd, Bowral.

REPORT

1. DESCRIPTION OF PROPOSED DEVELOPMENT

Proposed development

- The proposal is for a change of use from a bistro to a hotel for existing premises currently approved and operating as the 'Scottish Arms'. The change, if approved, would permit the applicant to apply to the Licencing Court of NSW for a new licence which would enable bar service without the current restrictions of the Drink and Dine licence and also provide the opportunity to sell over the bar takeaway alcohol that would be consumed off premises.
- No physical works are proposed nor any change to the current approved hours of operation. The approved hours of operation are Mon-Sat 12noon-12midnight, Sun & Public Holidays 12noon- 10pm, New Years Eve 12noon- 2am.
- The current patronage of the premises is dictated by the existing seating capacity and the current liquor license.

Wingecarribee Local Environmental Plan 1989

- The subject land is zoned Business 3(a) wherein a hotel is not a prohibited form of development.  
Wingecarribee Draft LEP 2007
- Under the Council's exhibited Draft LEP2007, the site is proposed to be zoned B1 Neighbourhood Centre zone. A 'pub' is a permissible use with Council consent in this zone.

REFERRALS TO EXTERNAL AUTHORITIES

- The application was referred to the NSW Police Service (Goulburn Local Area Command) and on the 11 February 2008 Council received a request for a number of conditions to be imposed if Council were of a mind to approve the development (Refer to **Attachment 1** to this report).

2. REFERRALS TO COUNCIL COMMITTEES

- The current application has not previously visited any other Council Committees.

### 3. PUBLIC CONSULTATION

- The application was notified widely to a total of 41 residential properties within the vicinity of the proposed development, from the 12 December 2007. Following significant community interest the response period for submissions was extended first to 10 Jan and ultimately until 18 Jan 2008. A total of 117 Submissions were received by Council within this period comprising 100 letters of objection (including one petition containing 5 signatures) and 17 letters of support.
- Objectors cite negative social impacts associated with a hotel, including anti-social behaviour, damage to private and public property, noise (both from the premises and from patrons arriving/departing), litter, traffic and parking issues and the inappropriateness of a hotel located within a residential area.
- Letters of support cite the positive social contribution and community focus provided by a family orientated hotel, the established responsible service of alcohol by the owners, reduced levels of vandalism/anti-social behaviour in the vicinity since the opening of the tavern and the convenience of dining/socializing/access to goods and services in a residential area otherwise devoid of such services.

#### **PLANNER'S COMMENTS:**

- The application states that the owner proposes no additional changes to hours of operation or patronage. The motivation for the change of use application is prompted by operational needs in that bar service will reduce the costs associated with employing wait staff to serve alcoholic drinks at tables. The applicant has provided a floor plan of the premises however provides no additional information as to how the 'drink only' bar area is to be isolated from access by other dining patrons, such as children (Refer to **Attachment 2** to this report). The bistro currently trades on the strength of its 'family atmosphere' and this atmosphere could potentially be eroded by the proposed change to a hotel.
- Many of the objections received by Council cite incidences of malicious damage to private property and anti-social behaviour within the vicinity of the Scottish Arms and also generally within the east Bowral area. Whilst these are indeed valid community concerns, the nexus between past and present anti-social behaviour and the operation of the Scottish Arms as a bistro and general store cannot be definitely made. Conflicting accounts have been received during the notification period with some residents in close proximity to the Scottish Arms citing no negative impact whilst others (many of which are considerably removed in location from the development site) citing significant negative impacts. Council in assessing the current application for a change of use to a hotel should also be mindful of the fact that many of the complaints received have been directed towards the existing approved development. Council is obliged to assess the current application in terms of whether operation as a "hotel", rather than a bistro, may either contribute to or exacerbate these pre-existing issues.
- It is to be noted that Council is also in receipt of positive submissions from residents in close or immediate proximity to the Scottish Arms (5 submissions received) stating that incidences of vandalism have actually decreased since the premises commenced trading. The owner of the Scottish Arms, after reviewing the objections received by Council, has stated in correspondence received 21 January 2008 that incidences of vandalism and antisocial behaviour have been occurring within east Bowral long before the Scottish Arms began trading in early 2007 and that there is no evidence to suggest any recent increase as a result of the opening of the bistro.

- Regardless of the difficulties in providing an irrefutable argument either way, potential does exist for negative impacts to increase with the proposed change of use to a hotel. The NSW Police Service has acknowledged this in its response to Council of 11 February 2008 stating:

*'Offences such as Malicious Damage, Assaults, Offensive Behaviour and Offensive Language are often offences associated with hotels and clubs and it is possible this could also occur if the Scottish Arms becomes a hotel.'*

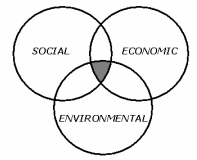
Whilst it may be unreasonable to attribute blame for past and present incidences of antisocial behaviour upon the Scottish Arms, Council should bear in mind that a change of use from a bistro to a hotel could potentially exacerbate such problems already in existence. However the applicant has advised, within the development application submission, that the owners of the Scottish Arms operate the bistro and general store in a community minded and responsible manner stating, in part:

*'The owners/managers have been most mindful of their responsibility to the local community with regard to the on-site behaviour of patrons of the complex; accordingly strict control has been kept of patrons entering the establishment, whilst within the establishment and upon leaving it...Pro-Active Security Services has been engaged to patrol the entire premises on a regular basis and have indicated that they do not have any problems with the subject premises as it is so well run by the owners...Members of staff are nominated on a rotational basis to patrol the premises and the adjoining community centre on a continual basis during hours of operation...Mr. Peter Robertson is likewise vigilant in patrolling this entire area after hours, to ensure security of the Scottish Arms complex and the adjoining East Bowral Community Centre.'*

- It must be acknowledged however that in spite of the current management, the imposition of conditions cannot ensure responsible management in perpetuity. It is perhaps inevitable that at some point in the future the premises may be on-sold or operated by new managerial staff. Any consent if issued, remains with the property and not the current owner. It should also be noted that as an approval already exists for the premises to operate as a bistro, any new conditions imposed must relate to the proposed change in use to a hotel. Suggested conditions include no extension to the currently approved hours of operation and that no poker or gaming machines are permitted (Refer to **Attachment 3** to this report). These suggested conditions are consistent with the NSW Police response (Refer to **Attachment 1** to this report). Council has been informed by the Liquor Licensing Court of NSW that a consent condition excluding poker and gaming machines will be a matter of consideration if at any future point in time an application for gaming machines is received by the Licensing Court. It should also be noted that if any such application is received by the Licensing Court this would be required to be accompanied by a mandatory Social Impact Study.

### **PARKING**

The frequent occurrence of cars parking along the length of Rowland Road and others in proximity to the Scottish Arms and the East Bowral Community Centre has been raised by objectors as an issue of concern. That parking in the street and surrounding streets does in fact occur has been confirmed by Council's inspection of the location. Objections raised suggest that overflow parking from the approved car park into the streets may be exacerbated by approval of the application currently before Council. As the applicant proposes no increase in patronage over the existing license arrangements, this argument is not considered to be entirely valid. Council is



not in a position to retrospectively impose additional conditions that relate to parking as this matter has previously been assessed to Council's satisfaction with the approval granted for the bistro and general store.

The owner of the Scottish Arms asserts that on-street parking demand is generated not only by the Scottish Arms but also by the adjacent East Bowral Community Centre and Child Care Administration Centre. Evidence suggests that on-street parking in Rowland Road occurred prior to the opening of the Scottish Arms, but that demand has increased with the opening of the bistro. Council does retain the ability to impose 'No Parking' areas within the streets in proximity to these developments, however if this measure is to be considered Council must carefully weigh up the likely consequences of such action. It has been observed by the operator of the bistro that many of those parking in the street do so even when the car park is near empty, with those choosing to park in the street being elderly patrons of both the Community Centre and the bistro. Such visitors appear to be either lacking in the confidence to park within the designated car parking areas or simply wish to avoid potential damage to expensive vehicles from opening doors etc. As parking within the street is currently not prohibited and does not appear to be resulting in obstruction to private property, Council needs to consider the likely impact of parking restrictions upon access for these elderly persons who regularly patronize Community Centre events. Such restrictions may also push the impact of parking demand into a wider area of the adjacent community and is therefore it is not recommended that Council take such action.

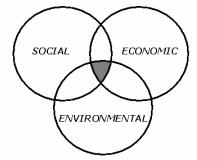
#### 4. CONCLUSION

The current operation of the bistro, in association with the general store, appears to be providing much needed services and a valued social focus for many residents of the east Bowral community, with the merits of the current operation produced through careful and responsible management from the proprietor. Council has the ability to limit some of the potential for negative impacts through conditions of consent, however should be mindful of the fact that conditions of consent cannot control all potential negative impacts in perpetuity.

Although a 'pub' is a permissible use within the existing and proposed zone, the site is located in the middle of a low density residential area. The preservation of residential amenity should be the highest priority for Council.

The application seeks approval as a 'pub' to enable an application to be made for a different, less restrictive liquor licence. Different types of liquor licences exist as an acknowledgment that different types of premises exist, with different clientele, different atmospheres and potentially different impacts.

On balance, it is impossible for Council to be assured that the change in use will not lead to a diminution of residential amenity and for that reason the application should be refused.



**ATTACHMENTS**

There are three (3) attachments to this report:

- 1.NSW Police Service (licensing Office) correspondence received 11 February 2008;
2. Floor Plan of Scottish Arms;
- 3.Draft Conditions of Consent.

**RECOMMENDATION**

THAT Council refuses LUA07/1359 on the grounds that a pub would be an inappropriate land use within the residential area of East Bowral.

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**o-EP2 White Horse Inn, Market Place, Berrima**

REF: DCM

LUA04/1755

Reporting on the proposed demolition of existing motel and construction of new motel White Horse Inn, Lot A DP378459, Market Place, Berrima. Applicant: Allman Johnston Architects.

**REPORT**

The development application is comprised of the following 3 components:

- The replacement of the existing and very dated motel with an attractive new building which has been designed to be sympathetic to the *White Horse Inn*, and to provide a high standard of holiday accommodation within the Village;
- Major structural and fire safety works to upgrade the main *White Horse Inn* building to ensure its conservation; and
- The Strata Subdivision of the development.

The application was lodged in late 2004 and over the past 3+ years the proposal has been revised 4 times in response to comments by the community, Council and the Heritage Council.

A preliminary report was presented to Council on 8 August 2007 for the sole purpose of facilitating consideration by the Heritage Council.

The latest revision has not been re-notified however those who have previously made submissions have been provided with copies of the latest plans, and to make a presentation to this meeting.

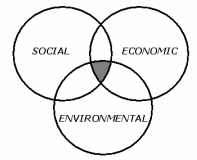
The Heritage Council has issued General terms of Approval to the current revision.

The proposed development is permissible and satisfies the relevant requirements.

**2. BACKGROUND**

This development application was lodged with Council on 18 November 2004 and at that time the proposed development was as shown on the plans in Attachment 4.

It was advertised in December 2004 and numerous submissions were received.



In response to issues raised, the proposal was revised and amended plans were re-advertised in November 2005. Submissions were again received.

The grounds for objection to the proposed development can be generally described as follows:

- Out of character with Berrima/incompatible with the heritage significance of the Village;
- Impact on surrounding views and landscape character;
- Contrary to the Berrima DCP;
- Incompatible bulk, scale and design of the development; and
- The subdivision of the land

The proposal was again considered by the Heritage Council and a draft refusal was prepared in December 2005. This was not issued at the applicant's request so that further revisions could be considered.

Council's Heritage Committee inspected the site on 4 December 2006, and subsequently recommended refusal on similar grounds to those detailed above.

In March 2007 the next revised proposal was re-advertised and submissions were received with similar grounds for objection.

The application was again considered by the Heritage Committee on 11 May 2007 with a similar recommendation.

On 8 August 2007, a preliminary report was considered by Council for the sole purpose a facilitating consideration of the proposal by the Heritage Council which required an indication of Council's position on the proposal.

Council resolved that it did not, in principle, object to the proposed development on the basis that it was a permissible use, and the application was accompanied by information which demonstrated that the development would result in the conservation of the *White Horse Inn*.

The revised proposal was forwarded to the Heritage Council and, at that time, it was as shown on the plans in Attachment 3.

An on-site meeting was held on 17 October 2007 and this was attended by the Approvals Committee of the Heritage Council, Councillors and Council staff.

On 7 November 2007 the Approvals Committee deferred consideration pending further discussions with the applicant about possible re-design options.

On 22 February 2008, Council received the GTAs from the Heritage Council.

(As an aside, the Heritage Council has taken an unacceptable period of time to consider this proposal – well beyond its statutory 40 day period. This is being taken up with the Heritage Council as a separate issue.)

### 3. THE DEVELOPMENT SITE

The *White Horse Inn* is located on the south side of Market Place, about 50 metres west from the Old Hume Highway, on Lot A, DP378459.

The property is an irregular shaped lot with a frontage of 27.064 metres to Market Place and an area of 5,583m<sup>2</sup>.

It has an overall depth of about 108.3 metres, and slopes down from Market Place to its rear (southern) boundary which is the Wingecarribee River.

Located at the Market Place frontage is the main building of the *White Horse Inn* complex, and this is a 2 storey building with sandstock block walls and a corrugated iron roof.

This building is currently used as a restaurant.

To the south east of the main building is the *Coach House*, a similarly constructed building which is used as the manager's accommodation and for storage.

Behind both these buildings, and about 40 metres from the frontage, is a 1980's single storey 4 room motel with white painted brick walls and a tile roof.

Attachment 1 contains an aerial photo which shows the location of the site and the buildings on it.

Photos of the site will be presented to the meeting.

### 4. THE PROPOSAL

The proposed development is comprised of the following:

- The demolition of the existing 4 room motel;
- The refurbishment of the existing *Coach House* to create 2 motel suites, with lounge areas on the ground floor, and bedrooms and bathrooms on the first floor;
- A new split level building of 2 modules, with each module containing an 2 motel suites on the ground floor, and 2 motel suites within the attic space.  
There is also a living space on the ground floor of each module (shown as Apartment on the plans) and this can be used by 1 or all of the motel suites in that module to provide a higher standard of self contained accommodation.
- The upgrading and refurbishment of the main *White Horse Inn* building, which will include structural and fire safety works, and the creation office for the management of the motel; and
- A Strata Subdivision of the development to create 5 lots and a Common Area.

The differences between the current proposal as presented to the Council meeting on 8 August 2007 are as follows:

- A reduction in the potential number of individual suites in the main building from 15 to 8 (the *Coach House* remains at 2 suites);
- A reduction in the length of the main building (the southern façade facing the Wingecarribee River) from 28 metres to 21.5 metres;
- A reduction in the overall height of the main building from 7.5 metres to 6.5 metres;
- A much simpler roof design; and
- A reduction in the number of Strata lots from 5 to 4.

Attachment 2 contains plans of the current proposal and Attachment 3 contains the previous proposal, while Attachment 4 contains the initial proposal to illustrate how it has evolved.

## 5. THE LOCALITY

Market Place is the southern extent of the Berrima commercial area, and the Wingecarribee River is its southern boundary.

The existing development in the immediate locality on the south side of Market Place is comprised of:

- The Australian Alpaca Centre (to the west between the *Inn* and the Old Hume Highway);
- *Rose Cottage* and the former *Magistrate's House* (both Heritage Items), which adjoin on the east and which are used for visitor accommodation;
- A vacant commercial building; and
- Peppergreen Antiques and Collectibles.

Directly opposite the *White Horse Inn* is the Market Place reserve.

## 6 PLANNING PROVISIONS

### (i) Existing Zoning – WLEP 1989 (as amended)

The aim of the proposed development is stated as being to provide for both short and long stay accommodation for tourists and, in this context, the development can be defined as:

- A *motel*, but the definition of this specifically refers to overnight accommodation; or
- A *tourist facility*, which provides for holiday accommodation but is not limited to any particular period of stay.

The land is currently in Zone No. 3(a) (Business Zone) and, in the development control table for this Zone:

- A *motel* is permissible with development consent; but
- *Tourist facilities* are prohibited.

However, the *White Horse Inn* is a Heritage Item within the Berrima Conservation Area and the LEP contains incentives to facilitate the conservation of such items.

Clause 31B states:

*The consent authority may grant consent to the use for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though the use would otherwise not be allowed by this plan....*

Therefore, this clause gives Council the ability to approve the proposed development as *tourist facilities*, and it also removes the absolute need to comply with any development standards.

(ii) LEP Conservation Provisions

Clause 31B requires Council to have regard to the following matters:

- (a) *it is satisfied that the retention of the heritage item depends upon the granting of consent, and*

Comment: The applicant has provided financial information which demonstrates that the *White Horse Inn* as a stand alone business does not have the financial resources to fund the works necessary to conserve the building and to bring it up to a satisfactory fire safety standard.

- (b) *the proposed use is in accordance with a conservation management plan which has been endorsed by the consent authority, and*

Comment: The development application is accompanied by a Heritage Impact Statement and a Conservation Management Plan.

These were referred to the Heritage Council which has forwarded its GTAs to the development.

- (c) *the granting of consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out, and*

Comment: As indicated above, the Heritage Council has issued GTAs and, in addition to these, it would be a Council condition of any development consent that the Conservation Management must be implemented, and that the works necessary to conserve the *White Horse Inn* must be undertaken as the first stage of the development.

- (d) *the proposed use would not adversely affect the heritage significance of the heritage item or its setting, and*

Comment: It is considered that the siting, design, location and appearance of the proposed development are such that it will not adversely impact upon either the significance or setting of the *White Horse Inn*. In particular, views of the Inn from public vantage points will not be significantly affected, and it will maintain its presence when viewed from Market Place, or the Market Place reserve.

This opinion is supported by the issue of GTAs by the Heritage Council.

- (e) *the proposed use would not adversely affect the amenity of the surrounding area otherwise than to an insignificant extent.*

Comment: For the same reasons as detailed in (d) above, it is considered that the proposed development will not significantly affect the amenity of the locality. The site of the new development is currently a motel, which is typically a quiet use and this situation is unlikely to change.

Clause 31C requires consideration of various matters relating to the compatibility of a building a heritage conservation area, including:

- The pitch and form of the roof;
- The style, size, proportion and position of the window and door openings; and
- The colour, texture, style and type of finish of the exterior materials.

The Heritage Council is the appropriate authority to make a decision on these matters and it has issued GTAs to the proposal which is now before the Committee.

(iii) Other LEP Provisions

The LEP contains a number of other clauses which are relevant to the proposed development, and the following is a summary:

*Clause 26* limits the heights of buildings to 2 storeys above ground level, except with the consent of Council, and the proposed development does not exceed this height.

*Clause 28* identifies the development as advertised development as it relies upon the conservation incentives in clause 31B and the application has been advertised in the appropriate manner.

*Clause 34* requires Council to consider the potential flooding of land, and the proposed development is sited above the 1 in 100 year flood level as determined by the Berrima Floodplain Risk Management Plan.

*Clause 36* requires the provision of potable water, sewerage and drainage facilities to developments, and the proposed development will be provided with the necessary utility services.

(iv) Proposed Zoning - Draft LEP2007

In this draft Plan, the proposed development falls within the definition of tourist and visitor accommodation, which provides for temporary or short term accommodation, and is permissible in the B2 Local Centre zone proposed for the land.

The draft plan also contains similar conservation incentives to those in WLEP1989.

Therefore, the proposed development is consistent with the draft LEP.

(v) Development Control Plans

The following DCPs have been considered:

*DCP No. 7 – Berrima Sign Code:* No advertising signs are proposed as part of this development applications and this would be reinforced in a condition of any consent requiring a separate development application for any signage.

*DCP No. 12 – Off-street parking, etc:* This requires the provision of carparking at the rate of 1 space per motel room and 1 space per 2 employees.

For the purpose of this development, the *White Horse Inn* has been excluded because it is an existing development and its employees would generally service the motel.

Therefore, the accommodation component of the development would require the provision of 10 carparking spaces.

It is proposed to provide 4 spaces on-site with the remaining 6 spaces to be accommodated within the Market Place parking area.

This arrangement is a compromise – the Heritage Council initial requested the removal of all carparking from the site.

The Market Place parking area is rarely full and therefore, the provision of 6 spaces there is considered to be reasonable.

*DCP No. 14 – Historic Berrima:* The White Horse Inn is in Precinct 1 (Southern Sector) and the DCP sets out various matters that need to be addressed, including setback, materials, colours, floor space ratio and roof form.

These matters have been addressed and are discussed elsewhere in this report.

*DCP No. 34 – Flood Risks:* As indicated earlier, the proposed development is sited above the 1 in 100 year flood level.

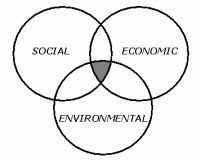
(vi) Ecologically Sustainable Development

The principles of ESD have been considered as follows:

*Environmental Factors:* It is considered that the design and operation of the development is unlikely to have any significant impact of the natural environment. Its design and siting is such as to not detract from the built environment.

*Social Factors:* It is considered that the proposed development will facilitate the conservation of a significant item of heritage and ensure that it remains open to the public and available to future generations.

*Economic Factors:* The proposed development will result in a high standard of accommodation to visitors to Berrima, and enable the White Horse Inn to continue as a viable business. In both cases, this will provide economic benefits to the Village.



## 7. DRINKING WATER CATCHMENTS REGIONAL ENVIRONMENTAL PLAN NO. 1

This Plan states that Council must not grant consent to the carrying out of development within the Catchment unless it has considered whether the proposed development will have a neutral or beneficial effect on water quality.

It is considered that conditions can be included in any development consent, and the development can be operated in a manner which will contain any impact on the site of the development and prevent it from reaching any watercourse, in particular the Wingecarribee River.

## 8. CONSULTATION

### (i) *External Referrals*

The development application was for Integrated Development requiring approval under s60 of the Heritage Act and was therefore referred to the Heritage Council which has now issued GTAs.

### (ii) *Internal Referrals*

The following have been consulted:

### (iii) *Neighbour Notification*

The development application has previously been advertised on 3 occasions and submissions have been received with the following general grounds for objection:

Copies of submissions were forwarded to the Heritage Council to assist it in its consideration of the application.

The current proposal, which is the 4<sup>th</sup> revision has not been re-advertised because it is substantially the same development, albeit that it has been reduced and amended to address the issues raised during each notification.

Those who have previously made submissions to Council have been provided with copies of the current plans, and have been invited to make a presentation to this meeting.

## 9. OPTIONS

The options to the Committee are to:

1. Refuse the development application for either the reasons set out in the recommendation or such reasons as the Committee determines;
2. Approve the development application subject to such conditions as the Committee considers appropriate; or
3. Defer consideration of the development application pending the receipt of additional information in respect of either the current or some alternative proposal.

## 10. SUMMARY

The proposed development is comprised of 3 related components.

The first is the replacement of the existing 1980's motel building with an attractive new building which has been designed to be sympathetic to the *White Horse Inn*, and to provide a high standard of holiday accommodation within the Village.

The second component is the conservation of the *White Horse Inn*.

The *Inn* is extremely significant to the Village as it "contains evidence of the period of early settlement of Berrima, and has played a significant role in the provision of accommodation and refreshments to decades of tourists and commercial travellers".

The 170 year old *Inn* is now in dire need of work if it is to remain viable both as a landmark building and a business open to the public.

The cost of this work, which will include structural remedial work as well as fire safety upgrading, has been estimated at up to \$500,000, and Council has previously been provided with information to demonstrate that this level of financial commitment is beyond the resources of the business as it currently stands.

The 3<sup>rd</sup> component of the development is the strata subdivision of the development.

This issue has been raised in a number of submissions, but it is not considered to be significant. It is a common component of many commercial, industrial and residential developments, and simply enables the separate ownership of parts of a development.

In the current instance, the strata subdivision has the benefit that it would provide a mechanism to raise funds quickly through the sale of the individual lots to fund the conservation, remedial and fire safety works on the *White Horse Inn*.

This is particularly important because the *Inn* requires a substantial amount of work not only for its conservation but also for its viability as a business and with this comes the ability for the *Inn* to remain accessible by the public.

Both the current and the draft LEPs acknowledge that property owners may require assistance to conserve heritage items, and both provide strong incentives for this to occur.

As indicated in the report, the proposed development satisfies the considerations for conservation incentives, is permissible in all respects and is consistent with the various requirements for such a development.

All the relevant matters such as the style, size, bulk, potential visual impact, and potential impact on heritage items and the conservation area have all been examined in considerable detail by both Council and the Heritage Council.

It is considered that the siting, design, location and appearance of the proposed development are such that it will not adversely impact upon either the significance or setting of the *White Horse Inn*. In particular, views of the *Inn* from public vantage points will not be significantly affected, and it will maintain its presence when viewed from Market Place, or the Market Place reserve.

This opinion is supported by the issue of GTAs by the Heritage Council.

The result of these assessments has been the issue of GTAs by the Heritage Council and the recommendation indicating that the development application should be approved.

#### ATTACHMENTS

There are 4 Attachments to this report as follows:

1. Locality aerial photo
2. Plans of the current proposal
3. Plans of the previous proposal
4. Plans of the initial proposal
5. Draft conditions of consent

#### RECOMMENDATION

THAT authority be delegated to the Director Environment and Planning to determine the development application for the demolition of the existing motel and the construction of a new motel at the *White Horse Inn*, Market Place, Berrima.

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**o-EP3 Truck Parking, Ovington Road, Yerrinbool**

REF: PDM

LUA08/0036

Reporting on a development application for Truck Parking at Lot 206 DP786295 Ovington Road, Yerringbool. Bureaucracy Busters Town Planning Consultants are the applicant in the matter.

REPORT

1. DESCRIPTION OF PROPOSED DEVELOPMENT

A development application has been lodged for the use of the above property for Truck Parking for five (5) trucks. The usage is currently occurring and was the subject of a development application in 2006 for three (3) trucks which was refused. The current application was lodged after enforcement actions were commenced for the ongoing unauthorized usage. The application details the following:

- (a) Layout of the proposed parking (**Attachment 1**).
- (b) Within the Statement of Environmental Effects:
  - Hours of operation being start 4.00am – 7.00am and return 3.00pm – 6.00pm.
  - Prior to start drivers undertake pre driving checks
  - 90% of vehicles when parked on this site will be unladen.
  - All mechanical repairs to trucks occur offsite.
  - Proposed to implement a Business Code of Practice to control driver behaviour.

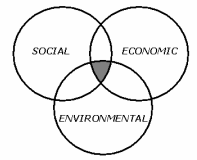
2. STATUTORY CONSIDERATIONS

The predominant Environmental Planning Instruments to be considered are Regional Environmental Plan No.1 Drinking Water Catchments and Wingecarribee Local Environmental Plan 1989. The zoning of the property under WLEP 1989 is 1(c) Rural (Smallholdings) zone.

Truck Parking is defined as *“the parking of more than one transport vehicle on a site but does not involve the loading, unloading or storage of those goods laden on the vehicle or servicing the vehicle on the site”*

The objectives of the zone include:

- (a) to accommodate demands for rural residential use, rural retreats and hobby farms and confine those form of development generally to areas not being of prime crop and pasture potential or where existing services are available or may be reasonably extended;
- (b) to ensure development is carried out in a manner that minimises risk from natural hazards, particularly bushfires and flooding, and does not detract from the scenic quality of the rural area;



The use of Truck Parking is not listed as a prohibited use and is therefore one that can be considered for development consent within the 1(c) zoning.

Draft Wingecarribee Local Environmental Plan 2007 provides for a zoning of RU4 Rural Small Holdings. The Draft WLEP 2007 lists uses that are permitted with consent (**Attachment 2**). The use of Truck Parking is not defined with the only relevant definition being:

*“Truck Depot’ means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like”.*

The usage is not listed as being permitted with consent in the RU4 Zoning. The use is proposed to be listed as permissible in the Industrial Zonings in the general category of “depot”.

There are no Development Control Plans that are pertinent to the usage.

### 3. REFERRALS TO STATE GOVERNMENT AUTHORITIES

No referrals were considered necessary. The REP1 considerations would involve consideration of erosion and sediment control within the parking area if it was proposed to approve the usage.

### 4. REFERRALS TO COUNCIL COMMITTEES

The matter has previously been considered by Councils Legal Committee. There has been no referral to other Council committees.

### 5. PUBLIC CONSULTATION

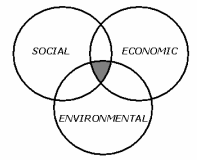
The application has been neighbour notified with five (5) submissions objecting to the usage as it currently occurs and as applied for Issues of concern include traffic safety, poor driver behaviour creating safety and amenity impacts, noise, dust, lack of privacy, adverse impact on property values, intensity of operation and pedestrian safety (school children).

### 6. INTERNAL STAFF COMMENTS

Councils development engineer has indicated that the truck movements can only be accepted at the site if Ovington Road were upgraded and intersection improvements constructed. The RTA design manual indicates a sight distance of 160m is required and this is currently achieved. If Council were to consider consent, conditions for these works would need to be formulated.

### 7. DISCUSSION OF MAJOR ISSUES ARISING

The usage of the property for Truck Parking is one that can be considered under the WLEP 1989. Whether this usage is appropriate for a rural residential zone is disputed. The draft WLEP 2007 does not envisage this usage within the proposed RU4 zoning and does not consider this usage as a compatible land use with small scale sustainable primary industry.



Council has previously refused development applications on this site and also another site to the South East (Nicholas). An appeal on the refusal of the development application for Nicholas was successful in the Land and Environment Court and approval granted for four (4) trucks.

Access to the subject property involves traversing Ovington Road which is a single vehicle width dirt road. Six properties access Ovington Rd. Trucks entering and leaving this road onto the Old Hume Highway are required to swing across to the opposite side of the road to undertake this manoeuvre. Although there are reasonably good sight distances this does not cover the potential safety issues that would arise in differing circumstances. This has been raised in a number of submissions.

With the intensity of usage of the site there would be a minimum of ten (10) truck movements per day, increasing the possibility of traffic safety incidents arising.

The hour of operation, in combination with the number and engine size of the vehicles concerned and their operational procedure, results in disturbances to amenity above that normally expected in a rural residential environment. Whilst there is an expectation of motor vehicle noise occurring, the vehicles would not generally be starting at 4.00am and be of the size of vehicle that use the site.

As can be ascertained from the aerial photograph (**Attachment 3**), the closest neighbour is at a distance of forty (40) metres from where the trucks are parked. Ongoing dust issues have been reported in submissions and this is a matter that could not be overcome without sealing Ovington Road.

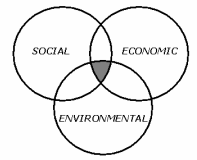
A drivers Code of Practice is a desirable addition with any application of this nature, however the implementation and monitoring for compliance would be difficult.

The property is located toward the end of Ovington Road. The trucks can be observed from the road and visually present a usage at odds with the locality. If Council were to consider any consent for the proposal, additional vegetation screens would be necessary from the road and neighbouring properties.

The owner of the site has indicated they have looked at other options within the Shire, however the properties are either too expensive or in an inappropriate location. Given the size of the operation and its impact upon neighbour amenity, it is considered that the usage is more appropriately located within an Industrial Zoning.

## 8. CONCLUSION

The usage as it is occurring is not a use considered compatible with the objectives of the zoning. This is due to the amenity impacts upon properties within the vicinity.



## ATTACHMENTS

There are four attachments to this report:

1. Site Plans
2. Draft WLEP2007 – RU4 Zone
3. Aerial Photograph of Site
4. Reasons for Refusal

## RECOMMENDATION

THAT the development application is recommended for refusal subject to the reasons for refusal in **Attachment 4**.

**o-EP4 Proposed Subdivision, Lots 2-7, 10-12, 14, 15, 17 and 18, DP285899 Dormie Views Estate, Dengate Cresnet, Moss Vale**

REF: DCM

LUA07/1456

Reporting on a development application for the re-subdivision of 13 existing community title lots into 26 community title lots. Applicant First City Holdings Pty Ltd

**REPORT**

1. PRECIS

This development application seeks Council's approval for the subdivision of 13 community title lots into 26 community title lots.

The existing lots range in area from 1,850m<sup>2</sup> to 2,260m<sup>2</sup>.

The subdivision would create lots with areas ranging from 855m<sup>2</sup> to 1,250m<sup>2</sup>.

The existing planning provisions in DCP No.16, and those proposed in draft LEP2007, both provide for a minimum lot size of 2,000m<sup>2</sup>.

The site is a very significant backdrop to the town of Moss Vale and its environs and the proposed subdivision, by doubling the density of development would result in an unacceptable visual impact.

In addition to the above, the development application has not provided a satisfactory justification as to why a departure from the existing minimum lot size requirements is warranted.

2. BACKGROUND

The following background to the Dormie Views Estate has been reproduced from the Statement of Environmental Effects lodged with the development application.

- *A Development Application for 81 units under SEPP 5 was lodged with Council on 27 May 2003.*
- *Council refused the application and an appeal to the NSW Land & Environment Court was lodged.*
- *In October 2003 Council advised that they would look favourably on a Community Title land subdivision with lots of aggregate size 2,000sqm as an alternative. The minimum required lot size at that time was 2,000sqm.*
- *Following negotiations with Council, the appeal was dropped and the application for an 18-lot subdivision proceeded; Council approved this amended proposal on 17 December 2003.*
- *With the project that has been implemented, it was demonstrated by the Shipton Group that there was a willingness to negotiate with Council to try and achieve a mutually acceptable outcome.*

An initial stage of this subdivision created the five 2,000+m<sup>2</sup> lots which adjoin on the north and which have vehicular access along the private driveway.

In addition to the above, the lower part of the original development site has been developed by way of a 19 unit SEPP5 complex – the Mereau Village Estate.

Therefore, when viewed as a whole, it is considered that the original development site has been developed in an overall appropriate manner – the higher density of development has been confined to the lower parts of the property where issues such as visual impacts have been minimized or contained, and the more elevated, more visible and more constrained parts of the site have been set aside for a low density of development.

It is also noted that the earlier SEE for the existing subdivision application in late 2003 stated that it “*helps to preserve environmental qualities and minimises environmental impacts*” given “*the environmental constraints of the site*”.

The current application fails to demonstrate how the environmental qualities of the land or its constraints have diminished in the intervening 5 years.

### 3. THE SITE

The development site is generally the west facing slope of a ridgeline which is the highest topographical feature around the Moss Vale township.

At its Dengate Crescent frontage the land has an elevation of about 734m AHD and falls to about 690m AHD at its western edge.

This fall of about 44m over a distance of about 300m represents an average slope of 1Vertical:7Horizontal (approximately 14%).

The land has been subdivided into 17 community title lots for residential purposes ranging in area from 1,857m<sup>2</sup> to 2,266m<sup>2</sup>.

The private concrete access road is the 18<sup>th</sup> community title lot.

Only one of the existing lots contains a dwelling and the current application is for its demolition associated with the proposed subdivision.

Landscape planting has been previously undertaken along the boundaries of the lots but otherwise the land is generally devoid of any substantial vegetation.

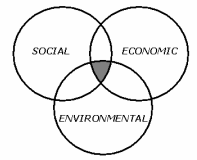
Attachment 1 contains a plan of the existing subdivision layout.

### 4. THE PROPOSAL

The proposed development is the re-subdivision of 13 of the existing lots into 26 community title lots with areas from 855m<sup>2</sup> to 1,247m<sup>2</sup>.

For the most part, this involves simply dividing each of the existing lots into 2 lots.

As indicated above, the existing dwelling is also proposed to be demolished.



A building envelope has been identified to contain a future dwelling-house on each proposed lot. The building envelopes occupy from approximately 40% to 50% of the lots, with a setback of mostly 8 metres from the access road – 2 lots have reduced setbacks of 3m and 5m. Side and rear setbacks are generally 5m – down to 3m for four of the narrower lots in the lower part of the site.

The existing Neighbourhood Management Statement is to be amended and bylaws are proposed to:

- Limit the floor area of any dwelling-house to 200m<sup>2</sup>;
- Ensure that buildings are contained within the building envelopes;
- Limit the pitch of any roof to 23° with provision for attic rooms; and
- Limit the height of any building to 1 storey above natural ground level at its highest point with provision for a garage or rumpus room under a house at its lowest point.

Comment: While such bylaws can provide a level of control over the form of future buildings, the underlined sections highlight the difficulties in dealing with development on lots with a considerable slope.

The effect of this section is to permit what is effectively a 2 storey elevation on the lowest side of any of the lots (with potentially a 3<sup>rd</sup> attic level) and a major concern is the visual impact of development to this extent.

It is most likely that future owners would seek to build a substantial dwelling-house, consistent with what exists in this area, and each would attempt to take the greatest advantage of the extensive views afforded from the site over Moss Vale and to the rural areas beyond.

Therefore, from the perspective that the development would be seen from below, the impression inevitably would be of each dwelling-house merging with that on the adjoining lots.

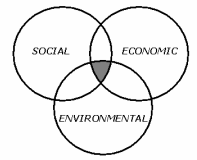
This situation is exacerbated by the relatively shallow depths (30m to 34m) of the proposed lots in highest parts of the site.

While landscape screen planting is generally a sound principle, its effectiveness where it would interfere with views is questionable.

Further, it is not unusual for departures to be sought from such private restrictions because of the perceived merits of a particular dwelling-house and these requests can be difficult to resist when an owner has invested a considerable amount of money in the design of the building.

Attachment 2 contains a plan of the proposed subdivision layout.

It is noted that, at the pre-lodgement meetings, the applicant was requested to provide a cross section plan over the whole site to give an indication of the potential visual impact of future dwellings built down the slope. This has not been provided although cross sections over parts of the site have been included.



In addition to plans of the proposed subdivision, the development application is accompanied by the following:

- A detailed SEE;
- Information that the proposed subdivision can be provided with an internal garbage collection service (ie bins would be placed at each lot and not at the Dengate Crescent frontage), with water and sewer services, and with natural gas;
- A brief Landscape Statement;
- A Traffic Impact Study;
- A Water Cycle Management Study; and
- A Hydrologic and Hydraulic Analysis.

Comment: The SEE examines various aspects of the proposed subdivision in considerable detail, but it falls short in terms of the following significant issues:

- It fails to provide a satisfactory justification as to why the existing requirements for a 2,000m<sup>2</sup> minimum lot size is unreasonable or unnecessary. In the current instance the applicant is seeking a blanket departure from this requirement and not simply a minor variation and therefore the standard for the justification should be similar to what is required under SEPP1 or for a spot rezoning.
- It fails to demonstrate that the end result – a fully developed subdivision – will not create an unacceptable visual impact upon Moss Vale and its environs.

## 5. THE LOCALITY

The locality is characterized by range of development types.

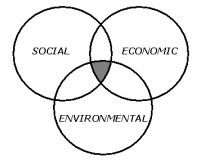
i. Adjoining on the east is a low density residential subdivision of 63 lots bounded generally by Dengate Crescent and Villiers Road. This subdivision was approved by Council in the mid 1970's and contains lots with areas of approximately 700m<sup>2</sup> along the Villiers Road frontage (which aren't visible from the site or beyond), and from approximately 745m<sup>2</sup> to 1,114m<sup>2</sup> adjoining the site. Only 4 of these lots are vacant with the others having been developed by way of single detached houses of 1 and 2 storey.

ii. Adjoining partly on the north are 5 larger residential lots of 2,000m<sup>2</sup> to 2,850m<sup>2</sup> and these contain large 1 and 2 storey single detached houses.

These lots were the first stage of the subdivision of the original SEPP5 development lot.

Also adjoining on the north is the "backyard" of the Moss Vale TAFE College.

iii. Adjoining partly on the west is the previously mentioned Mereau Village Estate, where the individual strata lots vary in size from 239m<sup>2</sup> to 453m<sup>2</sup> and contain a mix of 2 and 3 bedroom single storey units.



This was also an earlier stage of development of the original SEPP5 lot.

- iv. Adjoining on the west and also on the south is the Moss Vale Golf Course.

The aerial photo in Attachment 3 gives an indication of this surrounding development.

## 6. PLANNING PROVISIONS

### 1. Existing Zoning – WLEP 1989 (as amended)

The site is currently in Zone No. 2(a) – (Residential “A” Zone) and the relevant objectives of this Zone are:

- (a) *to maintain, and to provide for, areas with a low density residential character;*

Comment: While lots with an area of 1,000m<sup>2</sup> are considered to be low density residential lots, this alone is not sufficient justification for the proposed subdivision. The land must be suitable for that purpose and, in the current instance, matters such as the topography of the land, its location and its visual significance as a back drop to Moss Vale are relevant considerations.

- (b) *to ensure that any development will not have an adverse effect on the landscape or scenic quality of the area or the amenity enjoyed by residents located within the area;*

Comment: The subdivision by itself will have no visual impact – there will be no new significant works required.

However, the purpose of the subdivision is to provide for the erection of new dwelling-houses so it must be examined in this context, and it is a simple fact that the density of development will be doubled.

This would not typically be an issue on relatively level or gently undulating land where a higher density of development can be less evident.

In the current instance, the slope of the land and its prominence are significant impediments to this, and this issue is discussed later in this report.

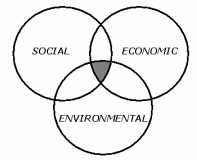
- (c) *to specify, by means of a development control plan, minimum allotment sizes for specific areas within the zone.*

Comment: In DCP No. 16 the land is in Sub-zone E1 which requires a minimum lot size of 2,000m<sup>2</sup> and the proposed subdivision does not comply with this requirement.

### 2. Proposed Zoning - Draft LEP2007

In this draft Plan, the development site is proposed to be included in Zone R2 Low Density Residential with a minimum lot size of 2,000m<sup>2</sup>.

The objectives of this Zone are somewhat broader than in the current 2(a) zone (as it is a template for all LEPs) but still refer to the need to:



- Integrate new development with established settlement patterns, with existing streetscape, and with the scale, density and form of existing development.

In the current instance the site relates more closely to the larger 2,000+m<sup>2</sup> residential lots adjoining to the north which have access off the same driveway, rather than to the smaller residential lots adjoining to the east from which it is topographically and visually distinct.

- Ensure that development has proper regard to the environmental constraints of the land, and this is discussed elsewhere in this report.

### 3. DCP No. 16 – Rural and Residential Development Standards

The relevant aims and objectives of this DCP are generally to:

- To encourage a variety of different lot sizes for different dwelling types and, in Moss Vale, this is achieved by providing for lot sizes of 700m<sup>2</sup>, 1,000m<sup>2</sup> and 2,000m<sup>2</sup> in areas where it is appropriate to do so; and
- To ensure that future development will not have an adverse effect on the landscape or scenic quality of the Shire's residential precincts, and this issue has been discussed.

In this DCP the development site is included in Sub-zone E1 which provides for a minimum lot size of 2,000m<sup>2</sup>, and the proposed subdivision does not comply.

### 4. Drinking Water Catchments REP No. 1

The REP states that Council must not grant consent to the carrying out of development within this Catchment unless it has considered whether the proposed development will have a neutral or beneficial effect on water quality.

Council must therefore be satisfied that the proposed development:

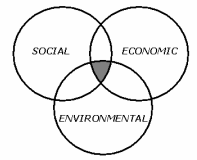
- a) has no identifiable potential impact on water quality, or
- b) will contain any such impact on the site of the development and prevent it from reaching any watercourse, waterbody or drainage depression on the site' or
- c) will transfer any such impact outside the site by treatment in a facility and disposal approved by Council, and Council is satisfied that water quality after treatment will be of the required standard.

In the current instance, the following information has been submitted to Council:

- a Water Cycle Management Study; and
- a Hydrologic and Hydraulic Analysis.

In any consent, conditions would be imposed requiring:

- a Soil Erosion and Sedimentation Control Plan to be implemented during construction phase;
- a Site Rehabilitation Plan to be implemented prior to the release of a Subdivision Certificate.



It has therefore been concluded that any potential impact would be contained within the development site and be prevented from reaching any watercourse.

## 7. CONSULTATION

### 1. Pre-lodgement Meetings

There have been 2 pre-lodgement meetings between Council staff and the applicant and his representatives.

At the initial discussion of the subdivision concept on 2 November 2007, the following issues were raised by Council staff as being of particular significance:

- The doubling of the density of development;
- The topography of the site and in particular its steep slope;
- The potential visual impact of development upon a prominent scenic backdrop to Moss Vale;
- The creation of building platforms would require major earthworks for cut and fill resulting in the likely need for extensive retaining walls;
- The limited capability for satisfactory screen landscaping;
- The need to present an argument (similar to SEPP1) to justify the substantial variations sought;
- The need to provide detailed plans, including cross sections down the site to realistically show the potential building envelopes and the impacts of the likely resulting large and probably 2 storey dwelling-houses.

The second meeting was held on 23 November 2007 over more detailed plans however the same issues were raised.

At this meeting, the applicant advised that the initial proposal for a Torrens Title subdivision as a first stage had been dropped in favour of a further community title subdivision. The main factor appears to have been the inadequacy of the existing private driveway to be dedicated and function as a public road due to its alignment and entry point onto Dengate Crescent.

As indicated elsewhere in this report, it appears that some of the issues raised by staff were not taken on board, including the justification for the variations sought, and the provision of cross sections to enable the potential visual impact to be more accurately assessed.

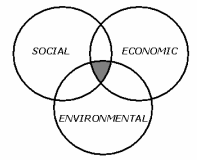
### 2. External Referrals

External referrals have not been necessary.

### 3. Internal Referrals

The following have been consulted:

Design Engineer (Traffic) has examined the Traffic Impact Study and does not have an issue with its conclusion that *“the proposed subdivision will cause only a marginal increase in traffic, mostly of a residential nature. There will be no adverse traffic, noise or road safety impacts. No improvements to the wider road and transport networks are warranted by the proposed subdivision”*.



Road capacity is not an issue. The alignment of Dengate Crescent will necessitate greater caution by drivers but this should always be the case in a residential area. The installation of a Give Way or Stop sign at the entry of the accessway would alert drivers exiting the subdivision to the fact that they are on a private driveway and must therefore give way to vehicles on Dengate Crescent.

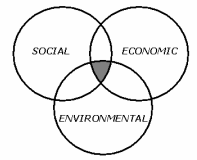
Water and Sewer Engineer has advised that there is water and sewer capacity available to serve the subdivision.

Manager Strategic Planning does not support the application for the following reasons.

- The proposed lot size is significantly below Council's existing and proposed 2000m<sup>2</sup> minimum lot size for this locality under the current Development Control Plan 16 and the Wingecarribee Draft LEP 2007 respectively. The proposal is therefore unacceptable with respect to the objectives of the zone and the minimum lot size requirement.
- Topography: Significant cut and fill would be required to accommodate any flat-based structures. The slope of the land would require even some driveways to be excavated into the slope. It is understood that the site is supported by shallow soils and extremely hard bedrock. The site is therefore constrained for development to be 'nestled' into the topography as put forward by the Landscape Architect. The amount of excavation required (which would be significantly increased as a result of the proposal) would result in unacceptable additional noise and vibration impact on neighbouring properties.
- Density: The density of dwellings is unacceptable in terms of visual impact. The underlying objective of the zoning and the minimum lot size over the site is to balance the interests of residential development against the scenic value of the site. The proposal presents an unacceptable impact on the value that the subject land provides to the scenic outlook from areas south east of the site.
- The applicant's solution to the topography is to present a stepped-roof construction technique. This would result in dwelling designs that may be unacceptable to all future owners, architects and builders.
- The photo montage (SEE - p19) provided does not accurately present the site constraints (ie slope) or the impact of the proposal. Of note, there are no stepped roof designs included, complete walls (uncut ground levels) are showing and the angle of the montage view is near to perpendicular to the slope. This denotes that the slope of the land and the impact on views from the proposal can not be accurately presented.

#### 4. Neighbour Notification

The development application was Neighbour Notified and 23 submissions were received, detailing the following general grounds for objection:



1. Inconsistent with DCP16; adverse impact on landscape or scenic quality; precedent; over development; density and proximity of buildings; development out of character of the area.

20 objections received.

2. Extensive cut and fill; possible geotechnical problems; noise, dust and vibrations during construction.

17 objections received.

3. Traffic problems, especially with existing high pedestrian and vehicle traffic generated by the High School nearby; narrow entry from subdivision; significant increase in volume; lack of footpaths; traffic noise.

22 objections received.

4. Existing water pressure problems exacerbated; infrastructure deficiencies generally.

17 objections received.

5. Garbage – bin storage, truck noise.

2 objections received.

The sources of these objections is shown on the plan in Attachment 4, and it is evident from this that the local community is opposed to the proposed subdivision, with the grounds for objection similar to the issues raised in this report.

## 8 OPTIONS

The options to the Committee are to:

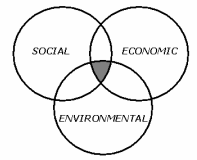
4. Refuse the development application for either the reasons set out in the recommendation or such reasons as the Committee determines;
5. Approve the development application subject to such conditions as the Committee considers appropriate; or
6. Defer consideration of the development application pending the receipt of additional information in respect of either the current or alternative proposal.

## 9. SUMMARY

The development site is a prominent and significant visual feature of Moss Vale – indeed it could be argued that it, together with Bong Bong Hill and the end of Beaconsfield Road contribute the “Vale” to the town’s name.

It is also a fact that the site affords extensive and panoramic views - both short range over the town and 180° long range to the rural areas beyond.

It logically follows that the reverse views are available back to this site.



The combination of the elevation of the site, its aspect and slope, the relatively shallow depth of the proposed lots and human nature (building bigger and with better views) will result in a significant visual impact and will diminish the scenic value of this landscape.

The applicant has argued that existing development immediately to the east is at a higher density but, while factually correct, it is the case that this development is for the most part located beyond the ridgeline and not prominent nor readily visible from vantage points.

In the **Background** section, the applicant has described that the existing subdivision, based upon the same 2,000m<sup>2</sup> minimum lot size that still exists today, was accepted as a satisfactory compromise to a much higher density of development.

However, an explanation has not been provided of how the environmental qualities of the land and its constraints have changed over the past few years to the extent that a doubling of the density of development is now warranted.

Nor does the development application contain a satisfactory justification as to why the existing 2,000m<sup>2</sup> minimum lot size requirement is unreasonable and unnecessary.

#### ATTACHMENTS

There are 4 Attachments to this report as follows:

6. Existing subdivision layout.
7. Proposed subdivision layout.
8. Aerial photo of locality.
9. Sources of objections.

#### RECOMMENDATION

THAT LUA07/1456 fro the proposed subdivision of Dormie Views Esate be refused for the following reasons:

- I. The proposed subdivision does not comply with the existing planning provisions in DCP No. 16 which requires a minimum lot size of 2,000m<sup>2</sup>.
- II. The proposed subdivision is inconsistent with the proposed planning strategy for this locality as expressed in DLEP2007 which will provide for a minimum lot size of 2,000m<sup>2</sup>.
- III. The proposed subdivision would result in a substantial increase in the density of development on a prominent backdrop to the town of Moss Vale causing a significant adverse impact upon the landscape and scenic quality of the area, being contrary to an objective of the 2(a) zone.
- IV. The proposed subdivision is inappropriate having regard to the topography, slope and location of the site.
- V. The development application has failed to provide a satisfactory justification as to why the existing minimum lot size requirement of 2,000m<sup>2</sup> is unreasonable or unnecessary.

**o-EP5 Demolition of Dwelling, Holly Street, Bowral**

REF: RH

LUA08/0007

Reporting on the demolition of Dwelling, Holly Street, Bowral. Applicant Dianne Eccleston.

REPORT

This development application seeks Council's approval for the demolition of a dwelling in Holly Street, Bowral.

The property is located within the "*Bowral Conservation Area*" under Council's Draft LEP 2007. The provisions of the exhibited draft plan must be taken into account in determining this application.

The planning provisions in Draft LEP2007, states that a Heritage Impact Statement "may" be required before consent for demolition is approved.

The existing dwelling is also listed on Council's Draft Heritage Inventory dating from 2003, as "*a rare and largely intact example of a mid-Victorian worker's cottage of high architectural quality which is critically important for its streetscape impact.*"

The opinion that the dwelling has architectural merit is tempered by the nature and standard of the building, which is very poor, in addition to the high restoration costs that would be faced by any owner of the property looking to provide a dwelling of reasonable size and comfort.

Recommended action under the Draft Heritage Inventory includes urgent maintenance, the removal of gidgee brick and restoration. However, the Draft Heritage Inventory enjoys no legal standing.

It is considered that the application warrants approval.

### 3. Background

Councils Heritage Consultant recorded the following opinions in August 2003:

**Statement of Significance:** "*A rare and largely intact example of a mid Victorian worker's cottage of high architectural quality which is critically important for its streetscape impact.*"

**Physical Description:** "*A rare and largely intact example of a mid-Victorian worker's cottage; simple gabled form with skillion verandah timber construction clad with weatherboards (over clad with gidgee brick); traditional two room plan with skillion addition at rear; single chimney 'modest scale and form; single storey construction; extensive setback from street in mature garden.*"

**Recommended Management:** *“Recommend urgent maintenance. Remove gidgee brick and restore original materials. Repaint according to heritage guidelines.”*

**Further comments:** *“Repaint, according to heritage guidelines. This is the earliest dwelling in the street and reflects the humble beginnings of this subdivision; retention of this building is critical to interpreting the historical development of Holly Street.”*

**Integrity/Intactness:** *“Intact apart from gidgee brick over-cladding”*

However, Council’s Building Surveyor’s inspection on 10 January 2008 reveals the “very poor” state of the building in relation to the streetscape, and the opinion that demolition was warranted.

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#### 4. Proposed “Bowral Conservation Area” - Draft LEP 2007

In this Draft Plan, the development site is included in the “Bowral Conservation Area”.

Clause 35(4) of the Draft LEP 2007 states that a Heritage Impact Statement “may” be required before consent for demolition is issued.

In many cases where demolition of a building that has some heritage value is recommended, a condition is attached that the building be documented prior to its demolition. This may be a reasonable condition in this case.

#### 4. DCP No. 49 – Waste Minimisation and Management

This DCP triggers the requirement for a Waste Management Plan to be provided. A draft deferral letter confirms 4 outstanding issues regarding DCP 49.

- Confirmation of Council as the PCA is required.
- Possible asbestos contamination.
- Lack of site plan.
- Lack of detail as to what buildings are included in the application. Particularly whether demolition of outbuildings is proposed.

#### 4. Neighbour Notification

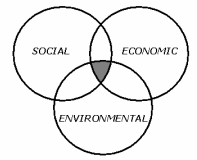
The development application was Neighbour Notified and no submissions were received.

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## **5. Options**

The options available to Council are to:

7. Refuse the development application for Heritage reasons as set out in the Council’s 2003 Heritage Assessment.



8. Approve the development application subject to such conditions as the Committee considers appropriate; or
9. Defer consideration of the development application pending the receipt of additional information from either Council's current Heritage Advisor or from a Heritage Impact Statement submitted by the applicant.

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## **6. Summary**

It is the recommendation of Council staff that Council supports the approval of this application and delegate authority to determine the application by way of approval with the deferred commencement condition of consent pending the receipt and positive assessment of a Waste Management Plan.

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## **7. Attachments**

There are 3 Attachments to this report as follows:

10. Extract Wingecarribee Heritage Inventory (5 Pages).
11. Extract Draft LEP 2007 "Bowral Conservation Area".
12. Site photos submitted by applicant LUA 08/0007.

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<b>RECOMMENDATION</b>
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THAT LUA08/007 for the demolition of a dwelling at 6 Holly Street, Bowral be approved with conditions including the submission of a Waste Management Plan and pictorial documentation of the dwelling.

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**o-EP6 Demolition of Dwelling, Myra Vale Road**

REF: DCM

LUA08/0004

Reporting on the demolition of a dwelling in Myra Vale Road, Myra Vale. Applicant PMH Building Company Pty Ltd.

**REPORT**

This development application seeks Council's approval for the demolition of an existing dwelling-house.

The dwelling-house was approved by Council in May 2004 and completed in late 2005.

Information obtained by Council indicates that the construction cost of the house was approximately \$2.5 million but it has never been occupied.

The applicant was requested to provide an explanation as to why an apparently structurally sound and relatively new dwelling-house warranted demolition as this seemed to be an inexplicable waste of resources.

Additional information has been provided setting out numerous perceived defects and Council's Senior Building Inspector has inspected the building to determine the validity of this information. It was found that these "faults" in the building were either minor in nature, easily rectified, or not substantiated.

While it is considered that the demolition of the building has not been justified, there appears to be very little in the way of case law to support Council should it decide to refuse the application.

However, in the interest of environmental sustainability Council can require the re-use of the major building materials in the construction of any new dwelling-house on the property.

**BACKGROUND**

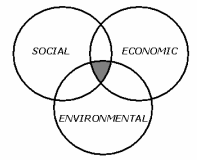
On 19 May 2004 Council issued development consent, a construction certificated and various other approvals for the erection of a dwelling-house on Lot 6 DP737470, Myra Vale Road, Myra Vale.

The building was completed in December 2005.

In the development application, the value of the building was stated as being \$1million however, it is understood that the actual construction cost was closer to \$2.5million. It is also understood that the building has not been occupied.

Attachment 1 contains plans of the dwelling-house and photos will be presented to the meeting.

On 22 October 2007 a Development Application and Construction Certificate application were lodged with Council for additions and alterations to the building valued at \$500,000.



These applications were withdrawn on 21 December 2007.

On 20 December 2007 the Development Application was lodged for the demolition of the building.

A site inspection by DCM was undertaken on 9 January 2008 and, as a result of this, the applicant was requested to provide a Statement of Environmental Effects addressing the following:

- A justification for the demolition of what appeared to be a structurally sound building;
- A Structural Engineer's report to describe any structural defects in the building such as might render it incapable of being used as a residence;
- Demonstrate why the existing building cannot be modified or otherwise adapted for use by the owner as a suitable residence given that the current application states that another dwelling-house is proposed; and
- Discuss why the demolition of what appears to be a well built and substantial building, and the disposal of a significant amount of the building materials at the Resource Recovery Centre, does not represent an inefficient use of resources.

The brief response from the owner on 16 January 2008 did not shed light upon the structural soundness of the building nor its inability to be adapted for on-going use as a dwelling. However, the owner did give a commitment to "sustainable development" and for the re-use and re-cycling of as much of the demolition material as possible.

Despite this, a follow-up letter for more detailed information was sent on 22 January 2008, and the response from Bureaucracy Busters received 13 February 2008 set out a list of faults in the building.

The response also gave details of the property owner's involvement in projects elsewhere, in particular *Sunrise at 1770* in Queensland, the goal for which has been "*to be the best ecologically sustainable development in Australia.....*"

Council's Senior Building Inspector has inspected the building, with the applicant, to determine the validity of the "faults" in the building and it was found that these were either minor in nature, easily rectified, or not substantiated.

Attachment 2 contains the Bureaucracy Busters response, and Attachment 3 contains a summary of the inspection results.

## PLANNING PROVISIONS

### 1. EP and A Act

In the Act, the definition of development includes "*the demolition of a building or work*".

### 2. WLEP1989 (as amended)

The subject land is in Zone 7(b) however, demolition is development but not a land use and therefore it is not included in the Development Control Table for any of the land use zones.

Schedule 7 of WLEP describes what is “Exempt Development” and in various zones, demolition is exempted from the need to obtain development consent.

However, demolition is not “Exempt Development” in Zone No. 7(b) and by default requires development consent.

### CONSULTATION

#### 1. External Referrals

Council’s Solicitor has been consulted on the option of refusing the development application. The Recommendation is consistent with his advice and reflects the likely difficulty for Council in defending an appeal against an outright refusal to allow demolition.

#### 2. Internal Referrals

Council’s Senior Building Surveyor has provided advice on the suggested “faults” in the building. (See Attachment 3)

#### 3. Neighbour Notification

The development application has not been Neighbour Notified.

### OPTIONS

The options to the Committee are to:

- a) Adopt the Recommendation, in which case development consent would be granted subject to conditions; or
- b) Refuse the development application for such reasons as the Committee determines.

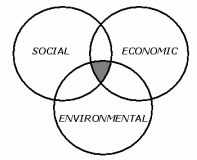
### SUMMARY

The demolition of an apparently structurally sound and relatively new dwelling-house is of some concern, particularly as it appears that the reasons for this relate solely to the owner’s dislike of the existing structure, and not to any substantiated defects in the building.

The principles of “ecologically sustainable development” and the sustainable use of resources are matters which Council is obliged to consider in its determination of any development application (Sec79C of the EP and A Act).

However, while the proposed demolition may be considered to be unacceptable as a matter of principle, defending that principle is likely to be extremely difficult.

Therefore, the granting of development consent is the most prudent course of action but, having regard to the property owner’s stated commitment to sustainable development there ought to be no objection to the inclusion of conditions requiring the re-use of materials as described in the Recommendation.



## ATTACHMENTS

There are 3 Attachments to this report as follows:

- a) Plans of the existing dwelling-house
- b) Additional information provided by Bureaucracy Busters
- c) Summary of Council inspection results

## RECOMMENDATION

THAT authority be delegated to the Director Environment and Planning to determine LUA08/004 for the demolition of the existing dwelling-house at Lot 6 DP737470, Myra Vale Road, Myra Vale, with conditions in any consent to include the following:

- i. The building must be carefully dismantled to ensure that the materials which comprise the major components of the building may be re-used and those materials are to include:
  - Any external or internal wall masonry;
  - Any wall framing timber;
  - Any roof framing and cladding;
  - Any doors and windows
  - Any concrete; and
  - Any internal fixtures and fittings.
- ii. The materials described in i above must be securely stored on-site to ensure that they may be re-used, and details of the proposed storage arrangements must be described in the application for a Construction Certificate.
- iii. Upon completion of demolition the owner must provide the Principal Certifying Authority and Council with a comprehensive inventory of the types and quantities of the materials described in i. above which have been recovered for re-use.
- iv. The materials described in ii. above must be re-used in the construction of any new dwelling-house on the property.
- iv. No new materials must be used in the construction of any new dwelling-house until such time as the stocks of the equivalent recovered materials have been exhausted.

**o-EP7 Suspended Walkway/Viewing Platform/Bridge, 21 Gibraltar Road, Mittagong**

REF: PDM

LUA07/1193

Reporting on proposed modifications to an existing suspended walkway structure erected without required Development Consent or Construction Certificate pursuant to the Environmental Planning and Assessment Act 1979.

REPORT

1. DESCRIPTION OF PROPOSED DEVELOPMENT

In 2006 a suspended walkway structure was erected on the property Lot 110 DP 830658 Gibraltar Road Mittagong. The required consents were not obtained for the structure and the matter was reported to Councils Legal Committee.

A development application has now been submitted for the modification of the walkway through the removal of a 70m section of the walkway, and the erection of a bridge to a viewing platform in line with the existing building – see **Attachment 1**

2. STATUTORY CONSIDERATIONS

The primary Environmental Planning Instrument governing the proposal is Wingecarribee Local Environmental Plan 1989.

The property is Zoned 1(c) Rural (Smallholdings) Zone pursuant to WLEP 1989. The most pertinent objective within this zone is:

*b) to ensure development is carried out in a manner that minimises risks from natural hazards, particularly bushfires and flooding, and does not detract from the scenic quality of the rural area,*

The property is proposed to be zoned E4 Environmental living in the Draft Wingecarribee Local Environmental Plan 2007. This zone provides for *low impact residential development in areas with special ecological, scientific or aesthetic values.*

Development Control Plans to consider in the evaluation of the development application are:

DCP 53 – Siting, Design and Landscaping of Rural Developments  
DCP 44 – Requirements for the Erection of Structures

3. REFERRALS TO STATE GOVERNMENT AUTHORITIES

No referral considered necessary. Modifications will need to be compliant with Neutral or Beneficial Effect guidelines of Regional Environmental Plan 1.

4. REFERRALS TO COUNCIL COMMITTEES

The proposal has previously been referred to Council's Legal Committee.

## 5. PUBLIC CONSULTATION

The proposal has been neighbour notified and one submission received. Council staff have met with the objector on site and outlined the proposal to remove a 70m section of the walkway. The objector has indicated in writing that this would address their concerns however have requested a cluster of trees may need to be planted if there is still the potential for viewing of the property. A letter of support has been provided from the property owners to the North of the walkway.

## 6. DISCUSSION OF MAJOR ISSUES ARISING

The proposal involves the modification of an existing structure that did not have the required consents. Council is therefore in effect considering

- the demolition of the eastern 70m of the walkway,
- erection of a new bridge and viewing platform and
- the continued usage of the remaining portion of the walkway.

The key issues arising from the structure and proposed modifications are

- Visual prominence within the natural environment
- Privacy issues due to the elevated nature of the building
- Safety of the structure and ensuring best practise geotechnical recommendations are followed

The removal of the portion to the east overcomes the privacy issues associated with the walkway as it currently exists. Additional tree plantings *if required* can assist and are conditioned. The building is of minimal bulk and scale and poses little intrusion into the landscape. The building is also almost completely screened by the native vegetation corridor that is established to the North of the walkway – refer **Attachment 2**.

A geotechnical report has been submitted suggesting the structure does not increase the risk of slope instability provided geotechnical recommendations are followed. In addition to this a Structural Engineer has assessed the existing structure and also the proposed building and has listed a number of required works to brace the walkway.

## 7. CONCLUSION

The modified structure will overcome the privacy issues previously raised. The structure is not bulky in form, and with the substantial landscape screening that exists is not imposing within the landscape.

The development application is recommended for consent.

### ATTACHMENTS

There are three attachments to this report.

1. Site Plan of Elevated Walkway and Viewing Platform
2. Photographs of Site
3. Draft Conditions of Consent

### RECOMMENDATION

1. THAT the application be approved subject to conditions of consent that form Attachment 3 of this report.

**o-EP8 Proposed Two Lot Subdivision Lot 1 DP1036670 "Kildrummie", Tourist Rd, Glenquarry**

REF: GJH

LUA07/1106

The development application is for a two lot subdivision of Lot 1 DP1036670, "Kildrummie", Tourist Road, Glenquarry. The application is accompanied by a SEPP No. 1 Objection to the 40 hectare minimum lot size standard.

**REPORT**

**1. DESCRIPTION OF PROPOSED DEVELOPMENT**

This proposal involves the creation of two lots. Lot 10 would have an area of 40ha and contains an existing dwelling and buildings. Lot 11 would be a vacant lot of 33.57 hectares. Refer to **Attachment 1**.

The subject subdivision is situated between Maloneys Lane and Rowlands Road.

Surrounding land uses are grazing or Water Board owned water catchment land.

Access to Lot 10 would utilize the current access from Tourist Road. Access to Lot 11 would be from Maloneys Lane.

**2. STATUTORY CONSIDERATIONS**

The land is zoned Special Uses 5(c), and Clause 12 (2) of WLEP 1989 requires a 40ha minimum lot size.

The Draft LEP 2007 proposes to zone the land E3 Environmental Management under which zone a 40 hectare minimum applies.

**3. REFERRALS TO STATE GOVERNMENT AUTHORITIES**

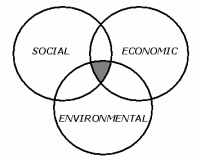
Both SCA & RFS have granted concurrence.

**4. REFERRALS TO COUNCIL COMMITTEES**

Nil.

**5. PUBLIC CONSULTATION**

No submissions were received during the notification period.



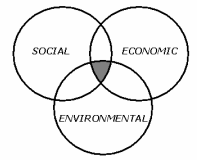
## 6. DISCUSSION OF MAJOR ISSUES ARISING

### SEPP No. 1 Objection

The applicants objection is reproduced below:

*“Having regard to the underlying objective or purpose of the development standard, strict compliance with the 40 hectare minimum allotment area is considered both unreasonable and unnecessary under the circumstances of the case for the following reasons:*

- *Proposed Lot 11, at 33.57 hectares, is comprised of almost entirely cleared pasture lands. There is sufficient cleared land available, to permit Lot 11 to be used for a viable agricultural enterprise. Accordingly, the proposed subdivision will not undermine the objectives of maintaining prime agricultural lands for agricultural purposes.*
- *The subject site is located within a relatively flat landscape and does not contain any visually dominant features. The proposed subdivision does not involve any physical changes to the landscape – apart from the erection of a boundary fence and the construction of a 185m section of Maloneys Road, both which will not be visible from Tourist Road. Accordingly, the proposed subdivision will not have a direct impact on the scenic attributes of the rural landscape.*
- *Proposed Lot 11 is to be created with the intention that a person will erect a dwelling-house upon it. A potential dwelling site has been identified, on a slight rise between two intermittent watercourses, some 500m from Tourist Road. An appropriately designed, and externally coloured dwelling-house can be erected in a nominated location, without offending the scenic attributes of the locality.*
- *The subject site is located some 8km north-west of Robertson and 10km east of Bowral. This relative remoteness of the site from urban settlements, and the existence of several thousands of hectares of undeveloped Sydney Catchment Authority land immediately to the north, ensures that the objective of retaining separation between towns and villages is achieved, despite proposed Lot 11 having an area of less than 40 hectares.*
- *The proposed subdivision will create one allotment of 40 hectares in area and one of 33.57 hectares in area, which equates to a density of 1 dwelling per 36.785 hectares. The development standards contained within WLEP 1989 anticipate a density of 1 dwelling per 40 hectares in the 5(c) zone. The dwelling density proposed represents a low density settlement pattern, despite not strictly complying with the development standard.*
- *The subject site (Lot 1 DP1036670) has a total area of 73.57 hectares, which represents 92% of the area required to enable a two (2) lot subdivision in strict compliance with Clause 12(2)(a) of WLEP 1989. The 8% variation being sought in this instance is of minor consequence, particularly when the proposal is considered in the context of the prevailing subdivision pattern of the locality.*
- *As demonstrated in Table A (in section 5.4 of this planning report), most (12) of the sixteen (16) 5(c) zoned allotments within the immediate vicinity of the site are less than 40 hectares in area. Of these, six (6) have dwelling-houses erected upon them.*



*Proposed Lot 11 will be larger than four (4) of the undersized properties containing dwelling and will be of an area comparable to Lot 1 DP789726 (36.42 hectares) and Lot 148 DP751277 (38.04 hectares), both of which contain dwelling-houses.*

*On the basis of the above, it is considered that the development proposal is consistent with the underlying objectives of the 40 hectare development standard, and strict compliance is therefore unreasonable and unnecessary under the circumstances of the case."*

#### 7. COMMENT

The arguments put forward in the SEPP 1 objection to support the variation are reasonable. The larger 40ha lot would be located at Tourist Road. The smaller lot would be located to the rear, adjacent to another other smaller lot.

There is no impediment to building on the vacant lot. Both SCA and RFS have granted concurrence.

#### 8. CONCLUSION

Should Council support this application it will need to be referred to the Department of Planning for concurrence as Lot 11 represents a 16% departure to the 40ha standard and this exceeds Council's 10% delegation.

It should be noted that the proposal could be amended so that each lot area would depart from the 40ha standard by less than 10%. While this would bring the proposal within Council's delegation, it would not result in a better outcome.

A draft consent has not been prepared at this stage, although there are no issues that require the imposition of anything other than standard conditions.

#### ATTACHMENTS

There are two Attachments to this report:

1. Plan of Subdivision
2. Locality Map

#### RECOMMENDATION

THAT the application be supported and referred to the Department of Planning for concurrence and THAT upon receipt of the Departments consideration, the Director Environment and Planning be authorised to finalise the matter.

**o-EP9 Proposed Additions to the Main Dwelling, Proposed Additions to the Caretakers Cottage and Construction of Proposed Guest Accommodation, Comfort Hill, Sutton Forest**

REF: C FROOME

LUA07/1465

Reporting on a proposal of a staged development, at "Comfort Hill" Lot 1 DP744544, Sutton Forest. The current application is for Stage 1 and proposes additions to the Heritage listed house including dining room, office and porte-cochere. Stage 2 will be the subject of a future separate application, and this will relate to 7 guest bedrooms (units) with additions to Caretakers Cottage.

REPORT

1. DESCRIPTION OF PROPOSED DEVELOPMENT

Site Details

"Comfort Hill" is located on the Hume Highway, west of Sutton Forest. The property of 525 acres contains a 20 hectare wildlife refuge registered with NSW National Parks and Wildlife Service.

The property contains 2 sandstone residences, 2 brick residences, sandstone stables and workshop, slab hut games room, 4 aviaries and 6 farm sheds.

Comfort Hill is listed as a Heritage item by the NSW Heritage Office State Inventory for :

- Comfort Hill group of buildings;
- Comfort Hill House;
- Comfort Hill gardens;
- Comfort Hill outbuildings, trees, stone walls and pond;
- WLEP 1989 Schedule 2

Proposed Development

The proposed development is for a number of additions to the main (Heritage listed) house, including a dining room, study and porte-cochere. (**Attachment 1**)

2. STATUTORY CONSIDERATIONS

Regional Environmental Plan No.1

The proposed development is identified as being "module 2" development under REP No.1, triggering referral to the Sydney Catchment Authority in relation to onsite effluent management. The conditions of the SCA were received on 25<sup>th</sup> February 2008.

### Wingecarribee Local Environmental Plan 1989

The land is zoned 7(b) as defined within Councils WLEP1989. A Heritage Impact Statement accompanies the application (**Attachment 2**).

The proposed development is permissible with consent.

The land is proposed to be zoned E3 Environmental Management under the Draft LEP2007 and is permissible with consent.

### 3. REFERRALS TO COUNCIL COMMITTEES

The application has not previously visited any other Council Committee meetings.

### 4. PUBLIC CONSULTATION

The application was notified for fourteen (14) days and during this period, no submissions were received.

### 5. INTERNAL STAFF COMMENTS

The application has been referred to Council's Heritage Advisor. In regard to Stage 1 only, his comments were taken into account and plans amended to reflect those comments.

### 6. CONCLUSION

In conclusion it is considered that the proposed Stage 1 – additions to the main residence only are appropriate development for the site.

## ATTACHMENTS

There are three attachments to this report

1. Site plans prepared by John R Webb & Associates (dated Nov 07 Job No:07/3490 DA Sheets 1 to 6
2. Heritage Impact Statement
3. Draft Conditions of Consent.

## RECOMMENDATION

THAT Council delegates authority to the Director, Environment and Planning to issue an appropriately worded and conditioned consent including the proposed draft conditions that accompany this report.

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**o-EP10 Proposal to Extinguish Dwelling House Entitlements under Draft Wingecarribee LEP 2008**

REF: SPM

5900

The Purpose of this report is to provide information and options in relation to the proposed provisions under Draft WLEP 2007 to extinguish dwelling house entitlements on allotments in rural areas created prior to the gazettal of WLEP 1989.

REPORT

INTRODUCTION

At its LEP Working Group meeting held on 13 April 2007, Councillors requested a report be brought to the Services and Infrastructure Committee on options relating to the provisions contained in Clause 54 (dwelling houses in rural areas) of the Draft WLEP 2007 and the positives and negatives of introducing the provisions.

The relevant provision from the draft LEP is as follows:

***54 Dwelling houses on land in Zones RU1, RU2 and E3 [local]***

- (1) This clause applies to land in Zones RU1, RU2 and E3.*
- (2) Development consent must not be given for the erection of a dwelling house on a lot to which this clause applies unless the consent authority is satisfied the lot:
  - (a) has an area of not less than the minimum subdivision size indicated on the Lot Size Map for the lot, or*
  - (b) was a lot created under Wingecarribee Local Environmental Plan 1989.**

Under Draft WLEP 2007, most rural areas have a minimum 40 hectares (100 acres) subdivision requirement. The clause infers that if an allotment of land does not have the minimum 40 hectares and was not created under WLEP 1989, then no dwelling house can be erected on that land.

There are rural properties which are currently entitled to have a dwelling house erected on the land by way of:

- a dwelling house entitlement on an existing parcel;
- as a concessional allotment or;
- A lot created under one of the former planning instruments that existed prior to amalgamation.

An unknown number of such lots do not already have a dwelling house erected on that land. Therefore, under the provisions of draft Clause 54, they would no longer have the right to erect a dwelling house.

A lot created as a result of an approval for a subdivision including concessional allotments which was approved under WLEP 1989, would retain its right to erect a dwelling house under the provisions of WLEP 2007.

## HISTORY

### *State Policy*

In 1973, the NSW State Government established a temporary State-wide subdivision minimum for rural land of 40 hectares (ha) for a dwelling entitlement. The policy was in response to growing concerns about the fragmentation of agricultural land and the spread of lifestyle blocks in rural areas.

The 40ha minimum had little practical relevance to commercial, sustainable agricultural enterprises or the degree of geographic, climatic or biophysical variability across the NSW agricultural landscape. There were concerns that the 40ha policy discriminated against intensive agriculture and ignored the economic realities facing farmers. Other problems with an arbitrary minimum allotment size included environmental issues with insufficient catchment areas to feed dams or capacity to absorb household waste.

In order to promote the policy to rural landowners, the then State Planning Authority also offered a number of subdivision 'concessions' to farmers, including the option of separating undersized allotments from the main farm. However, at the time it was suggested that the policy could potentially promote rural sprawl, resulting in environmentally harmful practices and increased land use conflict.

Concessional allotments were intended for farm workers and family members, but over time concessional lots have been sold to unrelated purchasers with no link to the original holding. The 40ha temporary minimum was intended to be an interim measure until more meaningful standards could be determined in each LGA by the respective council. It was a holding measure until more appropriate minimums could be worked out. However, no further work was undertaken and the 40 hectare minimum has largely remained.

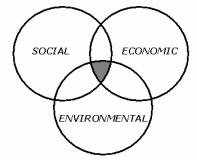
### *Council Policies*

The current WLEP 1989 gazetted on 12 January 1990 preserved those lots created as concessional allotments or other lots (eg: for Country Dwelling) under the

- Bowral LEP No 1,
- Mittagong Planning Scheme Ordinance,
- Wingecarribee LEP No. 55,
- Interim development Order No.1 Shire of Wingecarribee, and
- Interim development Order No.2 Shire of Wingecarribee

or which constituted an existing parcel as at

- 8 October 1954 in the case of the Bowral Planning Scheme Ordinance applied,
- 23 July 1965 in the case of land to which the former Burradoo and Environs Planning Scheme Ordinance applied,
- 16 February 1968 in the case of the Mittagong planning Scheme Ordinance applied, and
- 18 January 1963 in the case of land to which the former Interim Development Order No 1 Shire of Wingecarribee applied



On 11 April 1997, WLEP 1989 Amendment No 68 was gazetted which prevented the subdivision of rural land to create any further concessional allotments within the Shire. Accordingly no further concessional allotments have been created since 1997. Notwithstanding, under the provisions of State Environmental Planning Policy No 1 Development Standards, Council still has the ability, with the concurrence of the Department of Planning, to approve rural subdivisions creating allotments less than the minimum 40 hectares required under the LEP. In most instances however approvals granted would relate to minor variations only.

## ISSUES

There are issues with the continuation of allowing the erection of dwelling houses in rural areas on allotments which are small acreage in size. These issues include:

- uncertain planning environment;
- land use conflicts; and
- fragmentation and loss of rural land.

These issues were addressed in the report to the Minister for Planning in August 2007 on the Review of Land Use Planning in the Central West. Many of the issues discussed in the report can equally be applied to Wingecarribee Shire. Much of the following information has been sourced from that Report.

### *Uncertain planning environment*

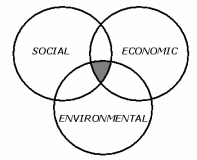
Most investments in agriculture are long term in nature. Uncertainty arising from not knowing what adjoining non-agricultural land use might be (particularly rural dwellings) can be a disincentive to investment and a potential constraint to farming.

Increases in land values that have resulted from land having a higher value for rural residential/rural lifestyle development than for agriculture can also impact on agricultural viability and the potential for farmers to expand their operations to become more competitive and gain access to economies of scale. This has occurred primarily where there is pressure for rural smallholdings and rural lifestyle blocks but where these have not been planned for in dedicated areas and thus have spilled over into areas that are essentially agricultural in nature. This is the case with concessional allotments in particular. Wingecarribee Shire recognised this issue a decade ago and abolished the creation of concessional allotments through LEP amendment No 68.

### *Land use conflicts*

Inappropriate siting of residential land uses in rural areas can and has resulted in land use conflicts and in turn has compromised the ability of some farmers to farm their land. Some of the conflicts which arise include:

- Use of sprays that drift onto adjoining neighbours and into homes and on washing, cars etc. Also the use of aerial crop dusting and spreading of fertilizers
- Odour is a common complaint associated with intensive animal industries
- Noise and light generated by the use of tractors from early morning activities as well as stock and milk trucks coming and going in the early hours of the mornings



The rural “lifestylers” often move into rural areas because of the rural setting and ignore the rural production side of the equation. Many of the activities associated with agriculture impact on the “lifestylers” amenity and enjoyment of their land.

Vegetation barriers are one method often used to ameliorate the problem, however the use of vegetation barriers in itself is becoming an issue in terms of the impact on the amenity of the rural areas.

It may be possible to include some form of notation on Section 149 certificates alerting the purchaser of the existence of surrounding agricultural uses and activities. However, it will not necessarily stop any complaints being registered and land use conflicts from occurring

#### *Fragmentation and Loss of Rural Land*

The fragmentation and loss of rural land has been identified as a major issue that may impact on agricultural production in the future in rural areas. Subdivision of rural land into lifestyle size allotments has resulted in the gradual transformation of some areas of the Shire being turned into essentially residential use.

Council has identified and zoned appropriate areas within the Shire where rural smallholdings have been planned and zoned accordingly eg Exeter, Avoca, High Range.

#### Options for consideration

The current draft provisions as exhibited as part of the Draft LEP 2007 would take effect from the gazettal of the LEP expected sometime later this year. Until gazettal takes place, applications are considered under the current and draft provisions. This allows beneficiaries of dwelling entitlements to seek dwelling approvals for their concessional allotments or existing parcels.

Provided below is a list of options for consideration by Council in relation to this matter

#### **Option 1.**

Retain the provisions as exhibited

#### **Option 2**

Introduce a sunset clause of between 2 – 5 years whereby the current provisions would be carried through to the new plan and would be extinguished on the date 2-5 years from the gazettal of WLEP 2007 depending on what Council chooses.

#### **Option 3**

Allow for the continuation of the existing dwelling houses entitlements as provided under WLEP 1989 which would require the existing clause to be inserted in place of the draft Clause 54.

#### **POLICY IMPLICATIONS**

Council's decision in this matter will become Council policy under the provisions of the New Shire wide LEP upon gazettal.

## ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

**(i) Environmental Factors**

The proliferation of rural lifestyle type allotments will continue to jeopardise the future viability of some agricultural areas within the Shire

**(ii) Social Factors**

The current provisions which potential extinguish dwelling house entitlements on undersized allotments may impact on the value of some land in rural areas which have remained vacant and which have dwelling houses entitlements

**(iii) Economic Factors**

Not applicable

## CONCLUSION

The original intent for the introduction of small rural properties adjoining farms has gradually lost relevance. Concessional allotments were originally introduced to provide for farm workers and family members and to minimise the subdivision/fragmentation of rural land. This objective is no longer relevant and this concession has been misused with many concessional allotments being sold to unrelated rural "lifestylers". Concessional allotments have become residential in nature and have resulted in a growing trend of land use conflicts.

## ATTACHMENTS

There are no attachments

## RECOMMENDATION

THAT Council supports Option 2 of introducing a sunset clause of between 2 – 5 years whereby the current dwelling house entitlement provisions would be carried through to the new plan and would be extinguished on the date 2-5 years from the gazettal of WLEP 2007 depending on what Council chooses to the introduce.

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**o-EP11 Reclassification of Iron Mines Oval**

REF: SPM

5900

**REPORT**

On 20 February 2008, the LEP Steering Committee discussed the inclusion of the Iron Mines Oval site in the reclassification of community lands under the draft LEP. It was Council's intention to only reclassify a small portion of the parcel immediately adjoining the Highlands Market Place. Because Council owned land cannot be classified part Operational and part Community, Council would need to undertake a subdivision of the land before initiating the process to reclassify it.

Therefore, the subject site cannot be included in the reclassification at this time.

There are no restrictions to having two different zonings over the land and Council may indicate if it wishes to vary the area of land that is to be zoned B5 Business Development under the draft Plan.

**ATTACHMENTS**

There are no attachments to this report.

**RECOMMENDATION**

THAT Council notes the above and removes Lot A DP 26366 Old Hume Highway, Mittagong from the reclassifications AND THAT it gives consideration to the appropriate zones under Draft LEP 2007 for Lot A DP 26366 Old Hume Highway Mittagong.



Scott Lee  
**Director Environment & Planning**

29 February 2008

**NOTICES OF MOTION**

**OTHER MATTERS**

**c-NMR1 08/2008 – Notice of Motion of Rescission –Leisure Centre**

REF: MAS

100/5, 7181, 105

"We hereby give notice of our intention to move at the next meeting of the Council that the following motion passed at the Ordinary Meeting of Council held on 27 February 2008 **be rescinded**:

- "1. THAT a Council poll be held at the next election to determine public support for the construction of a Leisure Centre and the funding model.
2. THAT the wording of the question be determined by Council prior to 31 May 2008.
3. THAT the LEP process continues including the reclassification of land which may involve the removal or reconfiguration of some land.
4. THAT the tender process for construction of a Leisure Centre continues to allow a definite pricing of the Leisure Centre to be determined.
5. THAT Council determines a financial model for the construction of the Leisure Centre prior to 31 May 2008 including possible grant funding AND THAT a consultant be employed for the purpose of verifying the value of land proposed for sale, subject to approval of the consultant's fee by the Council.

Dated 27 February 2008  
Signed Clr LAC Whipper  
Clr S Murray  
Clr J Clark"

**RECOMMENDATION**

SUBMITTED FOR DETERMINATION.

**NOTICES OF MOTION**

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**c-NM2 09/2008 – Notice of Motion – Council Wards**

REF: MAS

100/4, 105

Clrs P Yeo, J Clark and L A C Whipper have given notice of their intention to move the following Notice of Motion at the Ordinary Meeting of Council on Wednesday 5 March 2008.

*“THAT Council not proceed with the constitutional referendum on the establishment of Wards at the next Council election”.*

**RECOMMENDATION**

SUBMITTED FOR DETERMINATION.

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**ORDINARY MEETING OF COUNCIL**  
held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 5 March 2008

**CLOSED COUNCIL**

