

*File No. 100/07
Our Ref: RAP*

28 March 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, 2 April 2008** commencing at **3.30pm**.

Yours faithfully

Mike Hyde
General Manager

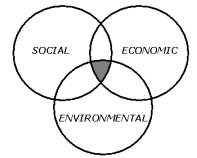
3.30pm	Council Meeting begins
5.30pm	Questions from the Public
6.30pm	Closed Council

BUSINESS

1. OPENING OF THE MEETING
2. PRAYER – *REVEREND ROBYN TRIGLONE OF MITTAGONG UNITING CHURCH*
3. PUBLIC FORUM
4. APOLOGIES
5. ADOPTION OF MINUTES OF ORDINARY MEETING HELD ON *WEDNESDAY, 26 MARCH 2008*
6. BUSINESS ARISING FROM THE MINUTES
7. DECLARATIONS OF INTEREST
8. MAYORAL MINUTE (*if any*)
9. OPEN COUNCIL CHAIRED BY *CLR T D GAIR*
 - 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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Our Values

EQUITY, JUSTICE and CONSULTATION in our obligations;

PRIDE in our lifestyle and environment;

EXCELLENCE in the provision of services;

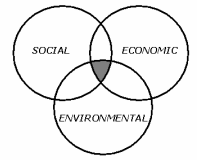
TEAMWORK, INNOVATION and CO-OPERATION in our business;

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, 2 April 2008



DECLARATIONS OF INTEREST

DECLARATION OF INTEREST
101/3

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

MATTERS DEFERRED FROM COUNCIL MEETING HELD ON 26 MARCH 2008

ENVIRONMENT & PLANNING DIVISION

o-EP5 Renwick Voluntary Planning Agreement

REF: DEP 5817/9

Reporting on the progress on the Renwick Voluntary Planning Agreement.

Council resolved at its meeting held 26 March 2008 as follows (vide OC 30/08):

1. *THAT this matter be deferred for consideration at the Ordinary Meeting of Council to be held on Wednesday, 2 April 2008.*
2. *THAT representatives from Landcom be invited to meet with Council to discuss the relevant issues associated with the agreement.*

REPORT

BACKGROUND

After deferring the matter from the Strategy and Finance Committee meeting of 27 February, Council at its meeting of 5 March resolved as follows:

1. *THAT this matter be deferred until the final draft of the Renwick Voluntary Planning Agreement is available for consideration by Council.*
2. *THAT a report on the use of Bong Bong Road and Colo Street to service the first two releases of the Renwick Estate be prepared for discussion when the agreement returns to Council.*
3. *THAT the final report clarifies the matter of alternative shire wide projects eligible for contribution by the Voluntary Planning Agreement.'*

The report and attachments from the meeting of 5 March forms **Attachment 1** to this report.

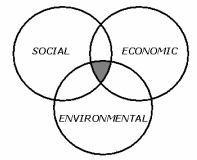
Copy of VPA

Landcom have now supplied a copy of the draft VPA, which forms **Attachment 2**. Although it has previously been reviewed by Council's Solicitor, the final version has been forwarded to him for any final comments.

Additional Information from Landcom

To assist Council, Landcom have provided a covering letter that clarifies their position on some of the matters that were of concern to Council. This letter is **Attachment 3**. This letter covers:

- Contributions for the Leisure Centre or some alternative community facility



- Use of Bong Bong Rd for construction traffic
- Moderate income housing

Use of Bong Bong Road and Colo Street

In its covering letter, Landcom have highlighted their approach to this issue. The DTS has provided the following comments:

Technical Services division reiterates previous comments that the existing road network has very limited structural capacity to accommodate heavy vehicle traffic accessing the Renwick development. Technical Services Division would prefer that the link from Inkerman Road be constructed first and that all construction traffic access the site from the northern end.

If Council were to agree to the use of Bong Bong Road and Colo Street by construction traffic, Technical Services division recommends the following conditions be placed on the developer.

1. *That a dilapidation report be prepared by a pavement management specialist contractor including comprehensive visual and deflection assessment of the roads being used for construction access.*
2. *That a construction bond of \$250,000 be paid by the developer to protect Council against having to meet the costs of repairing damage to the road network caused by construction traffic accessing the Renwick development site.*
3. *That the developer prepare a traffic management plan to specify the type of traffic and the routes that will be used to access the development site. The Traffic Management Plan will need to include existing traffic counts and vehicle classifications and be sited by the appropriate government railway authority in terms of the impact on their railway bridge assets.*

Alternative community facilities

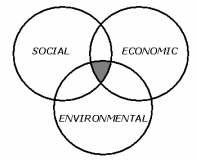
From a reading of the Landcom letter of 17 March, it would be prudent for Council to establish the case for an alternative community project. This will be essential should the Leisure Centre not be under construction by the 1 July 2009. In the absence of an alternative, the \$2M contribution embedded in the VPA will not eventuate.

An alternative would need to be more than an "idea". It would need to be a project that has a demonstrated need in the Shire, has been endorsed by the Council and the community through some transparent public process and have a properly considered costing and funding model. If Council can produce such a package, it would satisfy the intent of Clause 14.3 of the VPA and the \$2M contribution would be more secure.

ATTACHMENTS

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

1. Copy of report from Meeting of 5 March 2008 and attachments.
2. Draft Voluntary Planning Agreement.
3. Letter from Landcom dated 14 March 2008.



RECOMMENDATION

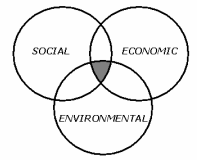
1. THAT Council endorse the draft Renwick Voluntary Planning Agreement attached to this report for the purpose of allowing it to be placed on public exhibition.
 2. THAT following the public exhibition process, a report be presented to Council.
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A handwritten signature in black ink, appearing to read 'Scott Lee'.

Scott Lee
Director Environment & Planning

28 March 2008



COMMITTEE REPORTS TABLED

c-CR1	Management and Advisory Committee Reports
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REF.	DCS	107/1
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Submitting minutes of nine (9) Committee meetings that will be tabled for information.

REPORT

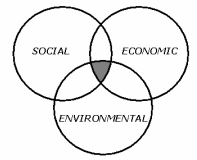
1. Bong Bong Common Management Committee meeting Tuesday 27 November 2007
2. Bong Bong Common Management Committee meeting Tuesday 5 February 2008
3. East Bowral Community Centre Management Committee meeting Tuesday 29 January 2008
4. Exeter Park Management Committee meeting Monday 4 February 2008
5. Exeter Park Management Committee Executive meeting Monday 3 March 2008.
6. Mittagong Community Centre Management Committee meeting Thursday 14 February 2008
7. Mittagong Memorial Hall Management Committee meeting Thursday 6 March 2008
8. Moss Vale Senior Citizens and Community Centre Management Committee meeting Monday 4 February 2008
9. Wingecarribee Aboriginal Advisory Committee Meeting Tuesday the 26 February 2008

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

THAT the information contained in the nine (9) Committee Reports be noted.



COMMITTEE REPORTS ATTACHED

c-CR1 Legal Committee (*Refer minutes page 9*)

REF	DEP	107/22
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Submitting minutes of the Legal Committee meeting held on Wednesday, 12 March 2008.

RECOMMENDATION

THAT the recommendations as detailed in the minutes of the Legal Committee meeting held Wednesday, 12 March 2008 be adopted.

c-CR2 Moss Vale Livestock Selling Centre Strategic Advisory Board (*Refer minutes page 14*)

REF	PPM	7170/01
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Submitting minutes of the Moss Vale Livestock Selling Centre Strategic Advisory Board meeting held on Friday, 7 December 2007.

RECOMMENDATION

THAT recommendation Nos 1 to 4 as detailed in the minutes of the Moss Vale Livestock Selling Centre Strategic Advisory Board meeting held Friday, 7 December 2007 be adopted.

**MINUTES OF THE LEGAL COMMITTEE MEETING
HELD ON WEDNESDAY 12 March 2008
in the Nattai Room**

File No. 107/22

PRESENT:	Clr M Murray (Chairman) Clr G Lewis Clr P Yeo Clr P Tuddenham (Arr 4.30pm) Clr D Gair Clr J Mauger
IN ATTENDANCE:	Clr N Campbell-Jones Clr J Clark Clr L Whipper Mr M Hyde GM Mr S Lee DEP Mr L Pawlak DCM Mr Andrew deMontemas (EHM) for Item 13.
APOLOGIES:	Mr B Bilinsky

NEW MATTERS

1. Unauthorised development works at Lot 2 Yeola Road, Robertson

Throughout 2007 Council received complaints concerning the unauthorised occupation of a shed structure at the above property. Upon investigation, a building previously approved as a barn in 1997 containing a bathroom only, had been adapted for use as a separate occupancy with laundry and kitchen facilities included.

RECOMMENDATION (Clr Yeo / Clr Gair)

- THAT** Council proceed to assess the development application for the attached dual occupancy structure and that this application be reported to Council for determination.
 - THAT** a Penalty Infringement Notice be issued pursuant to the *Environmental Planning & Assessment Act 1979* for unauthorised development works if the development application proceeds to a determination by development consent.
 - THAT** if the development application is refused, Council issue Orders for demolition of all unauthorised works.
-

COURT DECISIONS

2. **Refusal of new garage and pool at Lot 2 DP 1080318 Bibbys Lane, Werai (Orfali) – 502/61; PN1759970; LUA07/1192**

This appeal was heard by Commissioner Moore on 20 February 2008 with a decision in favour of the applicant.

RECOMMENDATION

THAT the information be received and noted.

3. **Tashonwok Pty Ltd (Eling Forest Winery) PN1701748**
Appeal Against Penalty Notice for unauthorised building work

The matter was heard on Wednesday 13 February 2008 at Moss Vale Court with a decision in favour of the applicant.

RECOMMENDATION

THAT the Mayor and General Manager discuss details of potential conflict of interest with Council's Solicitor.

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

Appeal against deemed refusal of 4 lot subdivision at 34 Berrima Road, Moss Vale determined in favour of the applicant.

RECOMMENDATION

THAT the information be received and noted.

ONGOING MATTERS

5. **Australian Lifestyle Corporation Pty Ltd 'Capernwray,' Moss Vale Road, Burradoo- 502/63; LUA06/1457;**

Council refused the development application on 27 February 2008. Appeal is listed for hearing on 31 March until 4 April 2008. Amended plans were submitted 29 February and these are being assessed.

RECOMMENDATION

THAT the information be received and noted.

6. **WSC ats Humphrey & Edwards, Architects – validity of conditions of LUA05/0732 – The Intersection, Cnr Station & Bowral Sts, Bowral PN222600; 502/57**

Council's Solicitor has provided an Opinion as to whether certain conditions of consent are valid, due to the possibility of an impending dispute regarding those conditions.

RECOMMENDATION

THAT subject to legal advice from Council's Solicitor, the applicant be advised to comply immediately with all relevant conditions of consent.

7. **Boen Boe Piggery (Zammit)**

502/8

The Court has set a date for a callover of 10 March 2008, and Council has formally accepted and receipted the development application and sent referrals to relevant Government Authorities and neighbour notified. Further callover Monday 23 June 2008.

RECOMMENDATION

THAT the information be received and noted.

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.

8. **WSC ats Larry Tuite (Norlex) - Bundanoon Water Extraction PN1105400; 502/54; LUA07/1170**

Hearing before Commissioner Moore of the Land & Environment Court commencing on site 13 March 2008.

RECOMMENDATION

THAT the information be received and noted.

9. **Terrigal Grosvenor Lodge Pty Ltd - 'Karrara' Cnr Links Road & Moss Vale Roads, Burradoo**

**LUA06/1428
502/59; PN979400**

The matter was heard in Picton on 4-5 February 2008. Commissioner Brown adjourned the matter in order for a number of outstanding issues to be attended to. Hearing to be concluded on 20 March.

RECOMMENDATION

THAT the information be received and noted.

10. Foldgarth Estate PN1389700; PN1389302; PN1389600

Clr Mauger tabled a letter from Abbott Tout, Lawyers, to the Chairman, but declined to make any further comment. It was agreed that this item would no longer be required to be listed on the agenda

11. Compliance Issues 5210/1

Current active Compliance Register is attached. Note that new entries and updates are in *italics*.

RECOMMENDATION

THAT the information be received and noted.

ADDITIONAL MATTERS

12. 68 Station Street, Bowral

See item 6.

13. WSC –v- Katts - Illegal Burning

The General Manager has requested the Director, Environment & Planning to liaise with Council's Solicitor to provide some advice regarding the above. Council's Environment & Health Manager, Andrew deMontemas, participated in the discussion.

RECOMMENDATION

THAT the information be received and noted.

There being no further business, the meeting closed at 5.10pm.

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

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

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.

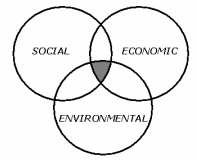
Quotes for new sheds were presented to the Board. A 200m² shed standing 4.2m high was \$30,000. In comparison, it would cost approximately \$30,000 to relocate used sheds totalling 160m² from Robertson and Burrawang. The Board agreed that a new shed was the best way to proceed.

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.

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.

VISITOR ITEMS

ENVIRONMENT & PLANNING DIVISION

v-EP1 Proposed Redevelopment, Home Hardware Site Mittagong

REF: DCM

LUA07/0555

Reporting on proposed re-development at Lots 7 and 30, Section 4 DP 1289, Lots 1 to 4 DP913353, Lot 1 DP724351 and Lot 1 DP 1003684, Bowral Road & Princess Street, Mittagong. Applicant: Allman Johnston, Architects.

REPORT

This development application is for a major redevelopment of the Home Hardware site and adjoining properties, and is comprised of the following main components:

- A lower ground floor extension of the existing Home Hardware store;
- Basement and lower ground floor storage and administration facilities;
- A first floor addition to accommodate a Retravision store;
- A new carpark on adjoining land bounded by Regent Lane, Princess Street and Regent Street to satisfy the carparking requirements for the total development; and
- The installation of traffic lights at the Bowral Road/Princess Street intersection.

The proposal generally satisfies the relevant standards for such a development (such as for carparking, loading/unloading facilities, design, appearance and landscaping), and the major issues of traffic and access have been resolved by the inclusion of traffic lights, road widening for a future roundabout at the corner of Regent and Princess Streets, and improvements to Regents Lane.

However, existing zonings prevent the approval of the proposed carpark and the southernmost part of the proposed commercial expansion.

It is therefore proposed to undertake the development in stages with appropriate conditions to ensure that the necessary carparking will be provided the assessment of this proposal is based upon the commitment that the Home Hardware builders supply yard in Priestly street will remain as the centre for bulky goods as the Bowral Road premises is not capable of providing the necessary unloading/loading/delivery facilities for such goods.

Overall the proposed development is considered to be satisfactory and approval is recommended.

BACKGROUND

The history of this proposal dates back to about August 2005 when a submission was made to Council seeking the rezoning of the residential land comprised of 6 lots bounded by Regent Lane, Princess Street and Regent Street to enable the construction of a carpark, and the residential lot adjoining on the south of the Home Hardware store to provide for stock storage and offices for the expanded development.

Unfortunately, not all of the rezonings needed to accommodate the whole redevelopment were included in the Draft LEP2007.

The existing Home Hardware store is proposed to be rezoned B2 (Local Centre) but the residential lot adjoining on the south is proposed to be zoned R3 (Medium Density Residential), which would preclude the construction of the stock storage and offices.

Similarly, the 5 lots fronting Princess Street are also proposed to be rezoned B2 while the adjoining lot fronting Regent Street is proposed to be zoned R3 and this would prevent the construction of a substantial part of the carpark.

The development application was lodged in June last year following an information session for Councillors.

In response to the exhibition of DLEP2007, the applicant has lodged a submission requesting the additional B2 rezonings necessary to enable the whole project to proceed and these changes have been supported by the LEP Steering Committee.

Attachment 1 contains an extract from DLEP2007.

THE DEVELOPMENT SITE

The development site is comprised of 2 separate parcels of land as follows:

1. The existing Home Hardware and associated carparking is located on Lot 1 DP1003684 (4,000m²) bounded by Bowral Road, Princess Street and Regent Lane. Lot 7 Section 4 DP1289 (667m²) adjoins on the south west and has been purchased to provide a consolidated area of 4,667m² for the commercial component of the development. The existing dwelling-house and outbuildings on this lot are to be demolished as part of the re-development.

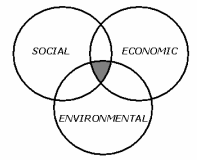
This parcel has frontages of about 102 metres to Bowral Road, about 106 metres to Regent Lane and about 40 metres to Princess Street.

2. Lot 30 Section 4 DP1289, Lots 1 to 4 DP913353 and Lot 1 DP724351, bounded by Regent Lane, Princess Street and Regent Street, have a combined area of about 2,700m² and have been purchased to provide the carparking needed to serve the development. This parcel has frontages of about 45 metres to both Regent Lane and Regent Street, and about 60 metres to Princess Street.

The lots fronting Princess Street are vacant, as the former Masonic Lodge and Hall were demolished under a previous approval by Council, while the dwelling-house and outbuildings on the lot fronting Regent Street are to be demolished as part of the re-development.

The 2 parcels are separated by the 6 metre wide Regent Lane which runs between Princess Street and Bessemer Street and provides rear vehicular access to Home Hardware and the existing residential development to the south-west.

Attachment 2 contains an aerial photo/locality map.



THE PROPOSAL

The proposed development is comprised of the following:

Stage 1

- The demolition of the existing 2 dwelling-houses and outbuildings.
- A lower ground floor extension of the existing Home Hardware store along the Bowral Road frontage, replacing the existing carparking there. This will create an additional retail area of 785m², bringing the total retail area up to 2,660m².

The Bowral Road façade is articulated, with window display spaces on the boundary and walls stepped back, and this *“gives the building lightness and prevents the ‘canyon’ effect of long masonry walls”*.

- A first floor addition over the lower ground floor extension to provide a retail floor area of 769m² for a Retravisation store.
- The installation of traffic lights at the Bowral Road/Princess Street intersection at the developer’s cost.
- The upgrading of Regent Lane to cater for the additional vehicular and pedestrian traffic.

Stage 2 (subject to rezoning)

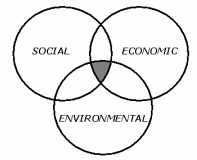
- An extension of the lower ground floor for stock storage (269m²) and offices and meeting room associated with the administration of the store.
- An additional basement stock storage of 350m², together with loading dock and garbage storage below the second stage extension.
- The removal of the existing carpark at the Princess Street frontage to create a landscaped forecourt/plaza as all public entry to the development would be from this side.
- A carpark with 90 spaces within the area bounded by Regent Lane, Princess Street and Regent Street.

Vehicular access would be via driveways from Princess and Regent Streets, and pedestrian access to the development would be by a defined paved pathway across Regent Lane.

Landscaping to street frontages and shade trees planting are part of the carpark design.

- The dedication of a splayed corner at the corner of Princess and Regent Streets to accommodate a future roundabout.

Attachment 3 (4 sheets) contains plans of the proposed development.



THE LOCALITY

The Home Hardware store represents the edge of the Mittagong town centre commercial area on the south eastern side of Bowral Road, and the remainder of the Bowral Road/Bessemer Street/Regent Street/Princess Street block is residential.

Directly opposite in Princess Street is commercial development (eg newsagency, real estate, vet), while directly opposite in Bowral Road is the Dan Murphy's liquor store.

The Main Southern Railway Line runs along the south eastern side of Regent Street.

Attachment 2 indicates development in the locality.

STATUTORY PROVISIONS

1. Existing Zoning – WLEP 1989 (as amended)

The existing Home Hardware store is currently in Zone 3(b) (Special Business) and the first stage of development, currently defined as *hardware shop* (Home Hardware) and *bulky goods shop* (Retravision), is permissible with development consent.

The adjoining land, for the second stage of the building, is currently in Zone No. 2(b), and the development proposed on this land is currently prohibited.

The land acquired for the carpark is also currently in Zone 2(b) and a carpark, being ancillary to the commercial development, is prohibited.

2. 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.

The plans show basement, lower ground, ground and first floor levels, but there is only a short section (about 5metres) where 3 levels overlap. This is where stage 1 and stage 2 overlap to create the ground/lower ground storage areas. This is only a short section of the whole building and, due to the fall of the land, the appearance of the elevations, particularly to Bowral Road, is of 2 storeys.

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.

Due to the demolition of existing buildings, the proposed development will generate a lower demand on water and sewer services.

3. Proposed Zoning - Draft LEP2007

The existing Home Hardware store is proposed to be in Zone B2 (Local Centre) and the proposed development, defined as *retail premises*, would be permissible with development consent.

Part of the proposed carpark would also be in Zone B2 and would be permissible with development consent as ancillary to the commercial development.

However, the land acquired for the second stage of the building and part of the carpark are proposed to be zoned R3 (Medium density residential) and these parts of the proposed development would be prohibited.

4. Development Control Plans

The following DCPs have been considered:

DCP No. 12 – Off-street parking, etc: This requires the provision of carparking at the rate of:

- 1 space per 30m² for retail/commercial uses and this would apply to the expanded Home Hardware;
- 1 space per 50m² for bulky goods, and this would apply to the Retravision store; and
- 1 space per 100m² for storage/warehousing, and this would apply to a proportion of both stores.

On the basis of the above, and the loss of existing carparking, the carparking requirement for the development is calculated as being:

Home Hardware:

2,000m²/1 space per 30m² + 660m²/1 space per 100m² = 73.2 spaces;

Retravision:

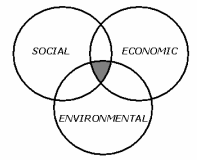
570m²/1 space per 50m² + 200m²/1 space per 100m² = 13.4 spaces.

This results in a carparking requirement of 87 spaces and it is proposed to provide 90 spaces.

DCP No. 32 – Mittagong Townscape: This sets out Council's architectural requirements for redevelopment in the Mittagong Town Centre, which includes the existing Home Hardware site.

The existing building is "non-contributory" to the architectural character of the Town Centre. It is considered that the design of the proposed development avoids a monolithic appearance, and its visual appearance will be restrained by the use of subtle materials and finishes.

The Mittagong Masterplan Committee has raised no objection to the proposed building.



DCP No. 33 – Advertising and Signage: The development proposal includes details of the proposed signage (see Attachment 3). This will be limited to single signs on each of the main facades and is considered to be reasonable.

5. 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 on the natural environment.

Its design, siting and landscaping is such as to enhance the built environment rather than detract from it.

Social Factors: It is considered that the proposed development will facilitate the reinforcement of the Mittagong Town Centre.

Economic Factors: It is considered that the proposed development will provide a service to the local community and a benefit to the local economy through the creation of employment opportunities.

6. 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.

The development application was accompanied by a Water Cycle Management Study and this was referred to the Sydney Catchment Authority for assessment and concurrence. (See Consultation)

7. Matters for Consideration

The matters in Section 79C of the EP and A Act have been considered in the assessment of this development application, and a summary checklist is attached to the file.

CONSULTATION

1. External Referrals

- i. The development application was referred to the Sydney Catchment Authority for concurrence pursuant to the Drinking Water Catchments Sydney REP1.

The Authority has provided Council with concurrence subject to conditions to be imposed in any approval.

- ii. The development application was also referred to the Roads and traffic Authority on 2 occasions as access was initially proposed to and from Bowral Road.

The initial response from the Authority sought additional information and expressed some doubts about the traffic generation figures used in the preparation of the Traffic Study.

A number of revisions were subsequently made to the proposal, including the inclusion of traffic lights at the Bowral Road/Princess Street intersection, and the Authority has now provided Council with conditions to be included in any approval.

2. Internal Referrals

The following have been consulted:

- i. Design Engineer (Traffic) has advised that the amended development proposal, which includes the provision of traffic lights, is satisfactory in terms of traffic and access matters, carparking, loading/unloading facilities and waste collection.

Some minor revisions are required but these can be satisfactorily addressed as part of a Construction Certificate application.

- ii. Water and Sewer Engineer has advised that water and sewer services can be provided to the development and the demand is likely to be lower than the existing and former development.
- iii. Manager Strategic Planning has advised that it is proposed to amend DLEP2007 to include the rezoning of the two R3 lots to B2, and this recommendation has been supported by the LEP Steering Committee at its meeting on 19 March 2008.

3. Neighbour Notification

The development application was Neighbour Notified for a period of 2 weeks from 26 June 2007 and the Mittagong Chamber of Commerce was invited to comment on the proposed development.

No response was received from the Chamber but 2 “neighbour” submissions were received expressing concerns about:

- i. Landscaping - requesting the retention of street trees and the replacement of any trees that may need to be removed.

Comment: The development application is accompanied by a Landscape Design Statement which indicates that:

- The existing *Prunus* trees along the Princess Street frontage are to be removed due to their poor form and condition, but these will be replaced with similar advanced specimens; and
- The majority of trees within the development site will need to be removed, but this will be compensated by extensive planting within the development, such as within the carpark (eg for shading) and along frontages and boundaries.

The creation of a landscaped forecourt/plaza along the Princess Street setback will also be a visual improvement.

ii. Regent Lane access and location loading dock

Comment: The proposed development includes improvements and widening of Regent Lane (along the carpark frontage) to facilitate vehicular access.

The proposed loading dock, although larger, is in the same location as the existing. Unfortunately, the prohibition on direct vehicular access from Bowral Road and the design/layout of the existing building does not leave a satisfactory alternative location for a new loading dock.

However, the development plans show that the loading dock will be enclosed and this will assist in minimizing noise.

4. Mittagong Masterplan Committee

The development application was considered by the Committee at its meeting on 2 July 2007 and recommendations were made for conditions of any consent to:

- Ban right turns out of Princess Street onto Bowral Road (this has been addressed by the inclusion of traffic lights);
- Notify of the potential for artefacts to be found on the carpark site (this would be a condition of consent);
- Improve the Princess Street/Regent Street intersection (this would be addressed by the dedication of land for a future roundabout);
- Ensure the retention of the street trees in Princess Street (this has been discussed in the previous section);
- Retain the oak trees in Bowral Road (this would be a condition of consent, although some judicious trimming by an experienced arborist would be considered); and
- Restrict parking on the south side of Bowral Road (the treatment of Bowral Road has been considered by the RTA and no special requirements have been imposed on carparking there).

5. Development (Traffic) Committee

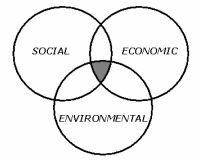
The development application was considered by the Committee at its meeting on 16 July 2007, and no objection was raised subject to a number of recommendations which have been addressed in revisions to the proposal.

OPTIONS

The options to Council are to:

- i) Approve the development to be undertaken in stages as described in the report subject to appropriate conditions;
- ii) Refuse the development application for reasons that would include the inability for Council to be satisfied that the total development can occur in the manner proposed due to uncertainties about the rezonings needed; or
- iii) Defer consideration of the development application pending either:
 - the rezoning of land needed to enable the total development to proceed; or
 - the receipt of an amended proposal which satisfies the existing zoning provisions.

Option 1 is recommended.



SUMMARY

It is considered that there are 2 major issues associated with the proposed redevelopment of the Home Hardware store – the existing and proposed statutory (zoning) provisions, and the potential traffic impacts.

Statutory Provisions

Under the current zoning the major part of the commercial development can be approved by Council however, the bulk of the carparking needed to serve this would not be provided and only the existing 10 or so spaces would remain.

DLEP2007 proposes to rezone most of the proposed carpark land such that Council could approve its construction.

It is likely that Council will agree to the additional rezonings in DLEP2007 to enable the whole of the development to proceed.

It is also likely that the timeframe for the construction of stage 1 of the development, as described previously, will be similar to what is required for the gazettal of DLEP2007, and the construction of the carpark could commence almost immediately after gazettal.

Therefore, it is reasonable for approval to be given for stage 1 but, in order to ensure that the required carparking does become available to serve the development, any approval would include a condition such as:

“An Occupation Certificate (either Interim or Final) must not be issued, and the development must not be occupied, until such time as a carpark is provided with a total of 90 carparking spaces together with boundary landscaping and shade tree planting.

The carpark must be in the immediate vicinity of the development.

As an alternative to the provision of a carpark, the developer may wish to negotiate:

- *the transfer to Council of adjacent Lots 1 to 4 DP913353, Lot 1 DP724351 and Lot 30 Section 4 DP1289 (corner Princess and regent Streets);*
- *the payment to Council of the actual costs to construct a carpark on this land; and*
- *a lease of this land as a carpark to serve the development.”*

It is considered that a condition such as this the only way to ensure that carparking can be provided to serve the development.

The transfer of land to Council could facilitate this because State Environmental Planning Policy (Infrastructure) states that a “carpark” is Exempt Development “if it is carried out by or on behalf of a public authority”.

While this option is unlikely to be needed, it is available and the applicant has indicated agreement to it.

Traffic

The main issue is the impact of the proposed development on the Bowral Road/Princess Street intersection.

The Traffic Study accompanying the development application confirms that this intersection is currently operating at a Level of Service F (on a scale of A to F, where F is the poorest LOS).

If the development was to proceed and the intersection remained un-signalised, the LOS would further deteriorate to unacceptable and unsafe levels.

The proposed development would not be solely responsible for this failure but, while it contributes to this failure, its traffic generation is “the straw that breaks the camels back”.

It is therefore a simple fact that the development cannot proceed without traffic lights at this intersection. It is also the case that neither Council nor the RTA has funds available for this work.

In recognition of this, the proposed development does include the provision of traffic lights and the developer has agreed to pay the full cost of signaling the intersection, which is estimated to be around \$150,000. This would be part of stage 1 of the development.

In addition to traffic lights the developer:

- has agreed to dedicate the splayed corner of Princess and Regent Streets and this will facilitate future Local Area Traffic Management works by Council (ie a roundabout); and
- will be required to upgrade Regent Lane.

In view of the cost of traffic lights, the dedication of land, the Lane upgrading and the wider benefit of these works, the developer has requested a concession on Section 94 contributions totalling around \$30,000.00.

This is considered to be reasonable and it is not proposed to levy any Section 94 contributions.

It is therefore considered that the major issues associated with this development have been satisfactorily addressed and, as indicated previously, the proposal generally satisfies the relevant standards for such a development.

Overall the proposed development is considered to be satisfactory and approval is recommended.

ATTACHMENTS

There are 3 Attachments to this report as follows, which have been circulated separately:

1. Extract from DLEP2007
 2. Locality aerial photo
 3. Plans of the proposed development (4 sheets)
-

RECOMMENDATION

THAT authority be delegated to the Director Environment and Planning to approve the development application for the redevelopment of the Home Hardware site in 2 stages as described in the report, and subject to special conditions including:

- a) The provision of carparking as described in the report;
 - b) The provision of traffic lights at the Bowral Road/Princess Street intersection as part of stage 1 and at the developer's expense;
 - c) The upgrading of Regent Lane as part of stage 1;
 - d) The dedication of the splayed corner of Princess/Regent Street as part of stage 2;
 - e) The retention of existing trees in Bowral Road;
 - f) The need for further investigation if any artefacts are found during construction work;
and
 - g) The requirements of the RTA in respect of road works, and the SCA in respect of water quality;
 - h) The retention of the builders' supply yard in Priestly Street as the bulky goods centre.
-

v-EP2 Proposed Child Care Centre at Crimea Street, Balaclava

REF: DCM

LUA 07/1052

Reporting on proposed Alterations and Additions to Dwelling and Change of Use to Child Care Centre at Lot 9 DP 841 Crimea Street, Balaclava. Approval is recommended.

REPORT

DESCRIPTION OF PROPOSED DEVELOPMENT

This application is for additions and alterations to a dwelling house, and its conversion into a 55 place child care centre.

The subject site is located on the southern side of Crimea Street which is a residential street within Balaclava. It immediately adjoins a vacant residential property on its eastern side and an unmade road on its western boundary. Further to the west facing the unmade road is an Integral Energy Sub Station. The site has a frontage to Crimea St of 30.5m, a depth of 60.5m, and an area of approximately 1,859m². There is no significant vegetation on the site. The building has a maximum height of 5m, a gross floor area of 294m² and is proposed to operate from 7.00am to 6.00pm. On-site car parking is proposed for a total of 16 spaces, including one designated disabled space.

STATUTORY PROVISIONS

The site is zoned 2(c) Village or Township Zone.

A Childcare centre is a permissible use with Council consent.

RELEVANT DEVELOPMENT CONTROL PLANS

DCP 39 – ‘Energy Smart Homes’

DCP 41 – ‘Development and Subdivision Engineering Standards and Planning Guidelines’

DCP 44 – ‘Requirements for the Erection of Buildings’

DCP 45 – ‘Public Notification of Proposed Development’

DCP 49 – ‘Waste Minimisation and Management.’

COMMUNITY RESPONSE (NEIGHBOUR NOTIFICATION)

Council is in receipt of 6 letters of objection, requiring the application to be referred to Council as per DCP 45. Principal objections and the number of times that these issues were raised are summarised as follows:

<u>OBJECTION</u> (Summarised from 6 letters received.)	<u>TOTAL</u> (Number of times issue raised.)
Increased traffic density	5
Increased noise (traffic and child noise)	5
Increase in traffic hazard (children & pets)	5
Inappropriate location (re: Proximity to Integral Power Sub Station/Railway)	1
Lack of car parking provision	1
Business will increase competition with other like business.	1
Lack of infrastructure (Kerb & Guttering)	1

TRAFFIC ISSUES

The application was referred to Council's Traffic Committee on 3 December 2007.

The Traffic Committee minutes do not provide a recommendation for either approval or refusal of the application.

Traffic Committee minutes state that *"the traffic impact on the local community due to the proposal assuming a two hour drop-off ... equates to 22 vehicle trips per hour"*

Police from the Goulburn LAC at the meeting recommended bollards between car park and children's play area for safety reasons.

They have also indicated that no further comment or requests will be forthcoming regarding the application.

PLANNER'S SUMMARY OF APPLICATION

The proposed development involves alterations and additions to a dwelling house for use as a child care centre.

The application was referred to the Sydney Catchment Authority, and the Chief Executive would concur with Council consenting to the application. This concurrence is subject to conditions regarding erosion and sediment control to manage adverse environmental and water quality impacts during the construction stage of the development being imposed.

The application was referred (8 November 2007) to the Department of Community Services, However, as of 25 March 2008 no response has been received by Council.

The proposal complies with the relevant requirements for such a development and approval is recommended.

The issues raised have been primarily traffic, safety and noise related. The Traffic Committee does not consider that the increased traffic generation will exceed any existing infrastructure capability. In addition to this, ample car parking facilities will be provided on site. The safety concerns regarding proximity to the existing Electrical Substation and railway line are mitigated by the distance of 40 metres between the children's activity areas and these items.

Moreover, acoustic barriers imposed as conditions of consent mitigate noise impacting adversely on adjoining properties.

CONCLUSION

It is considered that a childcare centre is a permissible and suitable use for the subject property. There are no constraints that would prevent the use of this site as a childcare facility notwithstanding the concerns that have been raised by members of the local community.

From the analysis given of the application, approval is recommended with conditions imposed to mitigate possible adverse impacts on the surrounding residential community, in particular the erection of an acoustic barrier to the outdoor play area to alleviate potential noise nuisance onto adjoining properties. Such a condition has been previously imposed upon child care centres by the Land and Environment Court.

ATTACHMENTS

There are two attachments to this report which have been circulated separately

1. Plan Set, Ardesign submitted with application
2. Draft Conditions

RECOMMENDATION

THAT authority be delegated to the Director Environment and Planning to approve LUA07/1052 for a child care centre at Lot 9 DP 841 Crimea Street, Balaclava subject to conditions as generally included in Attachment 2.



Scott Lee
Director, Environment Planning

27 March 2008

OPEN COUNCIL

ENVIRONMENT & PLANNING DIVISION

o-EP1 NSW Food Regulation Partnership

REF: EHM

5401/3

Reporting on recent amendments to the Food Act 2003 and Food Regulation 2004, which sees changes to the role of Councils in the regulation of Food Quality.

REPORT

On 31 January 2007 Council considered a report (0-EP4) on the proposed model for the NSW Food Regulation Partnership. This model has now been adopted with recent amendments to the Food Act 2003 and Food Regulation 2004.

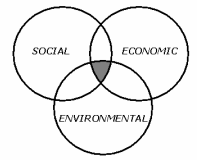
The NSW Government and local governments have worked together to develop the food regulation partnership. This adopted model:

- Clearly defines the respective roles of Councils and the NSW Food Authority;
- Provides a dedicated program to support and assist council roles in food regulation;
- Establishes arrangements for coordination of the NSW food regulatory systems; and
- Provides a secure funding base for councils' food regulatory work.

The legislation does provide flexibility and does allow the majority of councils to continue their current level of involvement in food regulatory work if they so choose.

A key component of the legislation is that councils are to nominate on the level of participation in food regulatory work, either Category A, B or C. The roles associated to each category are listed below:

Category A	<ul style="list-style-type: none"> • Food premises approvals • Emergency response • Urgent food recalls
Category B	<p>Category A, plus: For retail and food service businesses (excepting those businesses for which a Food Safety Scheme applies):</p> <ul style="list-style-type: none"> • Premises inspections (to determine compliance with Food Safety Standards 3.1.1, 3.2.2 and 3.2.3 and basic Food Standards matters and including taking samples as appropriate). • Investigating complaints (including single cases of food borne illness). • Enforcement action (including serving notices, orders and taking court action).



Category C	<p>Category A and B, plus: Any other role negotiated directly between councils and the NSW Food Authority, for example (but not limited to):</p> <ul style="list-style-type: none"> • Premises inspections for manufacturers.
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Category A: A Council can only be appointed to Category A in exceptional circumstance, where it is demonstrated that all resourcing options have been exhausted. Category A would mean that inspection and enforcement controls would be out of Council's control, and that Council could not control the fees being charged to its constituents, but rather the NSW food Authority would charge the maximum fee across the board.

Category B: This is the intended standard for most Councils. **Category B activities closely reflect Council's current functions and roles.**

Category C service level would include any other role negotiated directly between councils and the NSW Food Authority. This level would place an added burden on Council resources.

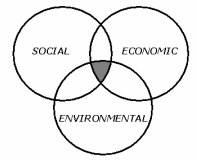
Adoption of the category B service level by Council would see a continuation of the regulatory role similar to that currently in force. This would also have the benefit of Council maintaining control over compliance inspection and enforcement procedures, maintain control over fees and charges and provide the high level of service expected by local businesses and ratepayers.

The new legislation also sets maximum fees (reflecting full cost recovery) that could be charged by either Council or the NSW Food Authority. These maximum fees are:

- Inspection fee - \$143.08 per hour plus \$35.77 for travelling expenses,
- A fee for issuing an improvement notice, and one re inspection - \$330, and
- Annual administration charge of either \$250 (premises with 5 or less food handlers), \$500 (premises with 6-50 food handlers), or \$2,000 (premises with 51 or more food handlers).

Council currently charges \$69.35 (GST incl) per inspection with no annual administration fee. Council's do have the capacity to waive or reduce the maximum fees which are identified above. It is not proposed to increase the fees to the level suggested in legislation, but to keep fees more in line with the current level, with a slight increase to cover rate pegging adjustment and expenses for a training program to be offered on the internet to all food handlers. The proposed fee is \$80.00 for a normal inspection, and \$143.08 for any inspection of large premises, where the inspection time takes 1 hour or more (eg. this may include a large supermarket which could have bakery, delicatessen and retail components). It is proposed to charge the Improvement Notice fee where situations require an Improvement Notice being served.

Council is required to notify the NSW Food Authority by 30 April 2008 of its intended service level category. The new food regulation role is expected to commence on 1 July 2008.



There are approximately 300 food premises operating within the shire, not including mobile operators.

MANAGEMENT PLAN ISSUES OR IMPLICATIONS

Council's food inspection program fits within the Environmental Sustainability component of Council's Management Plan. The review, and continuation of the inspection program is in line with the current objectives of the Plan.

POLICY IMPLICATIONS

Council will need to determine the level of service that it will provide in the Partnership, whether it be Category A, B, or C. Once Council advises the NSW Food Authority of this decision, Council will be appointed as an Enforcement Agency for this function.

BUDGET IMPLICATIONS

Existing resources (part of existing duties for 2 Environmental Health Officers) are proposed to be used in this program. A small increase in inspection fees are proposed, however this will still be below the recognised level for full cost recovery.

ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

(i) Environmental Factors
Nil

(ii) Social Factors
There is a community perception that Council undertakes the food inspection role. Adoption of Category B level of service would see Council provide the service expected by local businesses and ratepayers.

(iii) Economic Factors
Adoption of Category B would see Council maintain control over the level of fees being charged for the majority of food premises in the shire. It is proposed to keep the level of fees well below the maximum prescribed in legislation at this point in time.

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

1. THAT Council adopts Category B as its level of participation under the amendments to the Food Act 2003, and that the NSW Food Authority be informed accordingly.
 2. THAT the normal inspection fee be increased to \$80 (GST incl), and that an inspection fee of \$143.08 be charged for an inspection of large premises, where the inspection time takes 1 hour or more.
 3. THAT Council charges the \$330 fee for issuing an improvement notice and carrying out one re-inspection.
 4. THAT these fees and charges be considered in Council fees and charges adoption process, and then be applied after 1 July 2008.
-

o-EP2 Port O'Call Hotel, Cnr Bong Bong & Bundaroo Streets, Bowral

REF: DCM

LUA07/1187

Reporting on a Section 96 (2) amendment for the Port O Call Hotel at Lot 10 DP 805345
Bong Bong Street and Bundaroo Street, Bowral

REPORT

DESCRIPTION OF PROPOSED DEVELOPMENT

- The proposal is for an amendment to the architectural facades for the recently approved Port O Call Hotel. Minor changes include widening of the front verandah and an increase in ceiling height so as to improve the internal atmosphere of the hotel (Refer to **Attachment 1** to this report).

REFERRALS TO COUNCIL COMMITTEES

- The Port O Call Hotel development was recently approved at Council's Ordinary Meeting of 12 December 2007. The applicant now seeks an amendment under S96 (2) of the *Environmental Planning & Assessment Act 1979* to this approval.

PUBLIC CONSULTATION

- The application was referred to the Bowral Chamber of Commerce on 4 March 2008. Council provided the Chamber with a 14 day period in which to respond, however as of the time of preparation of this report no response to Council's referral has been received.

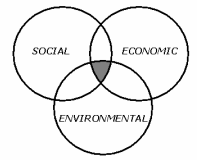
INTERNAL STAFF COMMENTS

Planning Comments

- The proposed amendment involves architectural changes to the building facades with only a very minor change to the approved floor plan in the NW corner of the site (Bong Bong & Bundaroo Street entrance). A schedule of proposed finishes and colours accompanies the amended plans and these are proposed to be referenced within an amended consent if granted (Refer to **Attachment 2** to this report).

CONCLUSION

- The amended façade treatment is considered to more closely reflect the comments made by Council's consultant heritage advisor on 14 November 2007. Specifically, the parapet roof element is now of the desired rectangular design as opposed to the pitched roof element nominated within the currently approved plans. Additionally the Bong Bong Street/Bundaroo Street corner element has been architecturally reinforced within the amended plans (Refer to **Attachment 3** to this report).



The approved façade treatment is considered to be an assemblage of façade elements whereas the amended plans provide for a more homogeneous design. Inspiration for the amended design is stated by the applicant as having been drawn from the more traditional design elements and materials found within the town centre of Bowral. As such, the amendment is considered to have design merit and accordingly recommended for an approval. No amended conditions of consent are proposed other than that required to encompass amended plan references and a schedule of proposed external finishes and colours.

ATTACHMENTS

There are three (3) attachments to this report which have been circulated separately:

1. Site plan, elevations prepared by Martin O'Toole Architects drawings DA-01'A' to DA-03'A' dated Jan 2008 and stamped 'Amended Plan rec'd 25 Feb 2008;'
2. Schedule of external colours and finishes;
3. Heritage Advisor's comments received 14 November 2007.

RECOMMENDATION

THAT Council delegate authority to the DEP to issue an amended consent pursuant to the Section 96(2) application for modification under LUA07/0118 as detailed within the amended plans forming **Attachment 1** to this report.

o-EP3 Proposed boundary adjustment and SEPP 1 Objection: Springhill Road, High Range

REF: DCM

LUA07/1229

Reporting on a boundary adjustment and SEPP 1 Objection lodged for lots 11 & 12 DP 800599 Springhill Road, High Range.

REPORT

DESCRIPTION OF PROPOSED DEVELOPMENT

Site Details

The Proposed Development

- The proposed development calls for the enlargement and relocation of an approved concessional allotment fronting Spring Hill Road. Lot 12 DP 800599 currently has a site area of 1 Ha and is proposed to be enlarged to an area totalling 8.571 Ha and relocated to encompass the existing dwelling located on the property. Conversely, existing lot 11 DP 800599 would be reduced in area from 72.38 Ha to 64.81 Ha, an area remaining in excess of the minimum standard of 40 Ha for the zoning (Refer to **Attachment 1** to this report).

STATUTORY CONSIDERATIONS

Regional Environmental Plan No. 1

- The proposed boundary adjustment is identified as being 'Module 4' development under the REP No. 1 adopted 1 January 2007 requiring mandatory referral to the Sydney Catchment Authority in relation to storm water management. The SCA has granted concurrence to the proposed development subject to conditions.

Wingecarribee Local Environmental Plan 1989

- The subject land is zoned 1(a) Rural wherein the boundary adjustment is permissible with Council consent subject to compliance with Clause 12 of Council's *WLEP 89* in that any newly created lot must not be less than 40 Ha in area.

REFERRALS TO COUNCIL COMMITTEES

- The application has not previously visited any other Council committees.

PUBLIC CONSULTATION

- The application being a boundary adjustment does not trigger notification in accordance with the provisions of Council's DCP 45 'Public Notification of Proposed Development'.

INTERNAL STAFF COMMENTS

ENGINEERING ISSUES

- There are no engineering conditions required for the proposed boundary adjustment.

PLANNING ISSUES

- The proposed boundary adjustment presents Council with a subdivision that is contrary to the minimum standard of 40 Ha as contained within Clause 12 (2) (a) of the *Wingecarribee Local Environmental Plan 1989*. Existing lot 11 DP 800599 is proposed to be reduced in area from 72.38 Ha to 64.81 Ha. Existing lot 12 DP 800599 is proposed to be enlarged from 1 Ha to 8.571 Ha. Council should be aware that within the WLEP89 there is no specific provision for the enlargement of concessional allotments. If a lot is to be created that is less than the 40 ha minimum standard, then a SEPP 1 variation is required.
- Council's consistent advice has generally been that concessional allotments will not be considered for enlargement above 2 Ha so as to maintain the intent of the original approval, being a small allotment ancillary to the original holding. This was conveyed to the applicant in pre lodgement discussions
- Council needs to consider carefully the potential ramifications of allowing original concessional allotments to be altered in size and location. The potential exists for such decisions to effectively undermine both the basis for the original concessional approval and the existing 40 hectare standard for rural subdivisions.

SEPP 1 OBJECTION

- The application is accompanied by a SEPP 1 Objection seeking support for the required variation under the WLEP. The grounds for the SEPP 1 Objection provided are that the approved size and location for existing lot 12 are unsuitable for the provision of on-site effluent disposal and that the location is contrary to Council's DCP 53 in relation to visual prominence.
- It is considered that the reasons provided within the SEPP 1 Objection are insufficient to warrant consideration of the proposed boundary adjustment. The suitability of on-site effluent disposal is a matter that would have formed an essential part of Council's original approval for the location of the 1 Ha concessional allotment and no information has been supplied that demonstrates the problems with on site effluent disposal. In regards to Council's DCP 53 the location of lot 12 is not considered to be visually prominent, being at an approximate RL of 710m with the crest of the hill located at an RL of 770m (ie: the subject site lies approximately 60m below the ridgeline of the hill). No supporting information detailing the unsuitability of the current location of lot 12 has been provided by the applicant.
- Whilst there may be alternate locations within the subject property that may, when assessed on merit, offer increased amenity for any future dwelling house, this is not considered to be justification for the proposed enlargement and relocation of the existing concessional allotment. Council should be aware that as the resultant allotment created by the proposed boundary adjustment departs from the minimum standard in excess of 10%, the Department of Planning approval is required. The onus rests with the applicant

REPORT OF DIRECTOR ENVIRONMENT & PLANNING

to provide sufficient justification to warrant DoP approval for a development that represents a very considerable departure from the minimum standard as contained within Council's *WLEP89*. If Council were of a mind to consider the proposal it is recommended that an allotment with a maximum area of 2Ha only be considered, with the location to be subject to detailed assessment including the location of effluent disposal, proximity to watercourses, existing vegetation and arrangements for access.

CONCLUSION

- The SEPP 1 Objection (Refer to **Attachment 2** to this report) is not considered to provide sufficient justification in order for Council to consider the creation of one new undersized lot that is contrary to Clause 12 of Council's *WLEP 89*. In order to more readily gain Council support, it is recommended that the applicant be advised to lodge a fresh plan of subdivision that reflects the above recommendations.

ATTACHMENTS

There are two (2) attachments to this report which have been circulated separately:

1. Subdivision Plan prepared by Campbell and Anderson Consulting Surveyors Dwg No: 17735-DA dated 20 August 2007;
2. SEPP 1 Objection.

RECOMMENDATION

THAT Council delegate authority to the Director, Environment & Planning to issue a refusal notice for the proposed boundary adjustment and SEPP 1 Objection and further invite the applicant to lodge a fresh development application for a boundary adjustment that will result in one undersized allotment of not more than 2Ha in area.



Scott Lee
Director, Environment & Planning

27 March 2008

TECHNICAL SERVICES DIVISION

o- TS1 Leisure Centre Project Reference Group

REF: DPM

7181/5

Reporting on the minutes of the meeting of the Leisure Centre Project Reference Group held Monday 17 March 2008.

REPORT

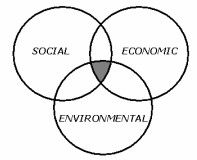
BACKGROUND

This report confirms the Project Plan for the tender phase of the Leisure Centre project in accordance with Part 4 of the following resolution passed by Council on 27 March 2008:

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.*
2. Project Plan for the Tendering phase

The Project Reference Group has discussed the Project Plan for the tendering phase. The tender process is a two-step process, known as selective tendering. The first step, involving the calling of expressions of interest is now well advanced, and a shortlist of tenderers who will be invited to submit a tender is being prepared. Even though the tendering process is continuing, the actual inviting of tenders will be delayed until such time that Council has considered the outcomes of the poll. Specialist members of the Project Reference Group caution Council against inviting tenders prior to considering the outcomes of the poll because:

- a. Tenderers will be reluctant to submit a competitive and meaningful tender if there is uncertainty over the project
- b. The creditability of Council will be affected in the contracting market if Council were to go to tender for a major project without a firm intent to proceed



Accurate Costing

It is understood that the intent of Council's resolution is to obtain an accurate a cost for the Leisure Centre in time for Council to formulate the wording of a question for the poll.

Council has engaged a Quantity Surveyor for the project (WT Partnership), who is preparing a detail cost plan and is reporting regularly to the Project Director with costing updates. The most recent project estimate is close to the budget figure of \$16.7 million (December 2009 figures).

The Project Reference Group recommends that Council engage a second Quantity Surveyor to undertake a pre-tender estimate for the project based on the tender documentation. This then means that Council will obtain an independent review of the estimates that are currently being supplied.

Council should note that the delays to the project will add additional escalation costs to the project estimate.

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

1. THAT the selective tendering process continue through the shortlisting of suitable building contractors, but that tenders for construction not be invited until Council has considered the outcome of the poll;
2. THAT the consultants for the Leisure Centre complete the tender documentation and pre-tender estimate of cost AND THAT Council engages a separate Quantity Surveyor to prepare an independent pre-tender estimate of cost;
3. THAT the cost estimates prepared by the Quantity Surveyors be considered by Council when formulating the wording of a question for the poll.

M J Brearley
Director Technical Services

28 March 2008

NOTICES OF MOTION

OTHER MATTERS

c-NM1 11/2008 – Notice of Motion – Development Consents – 5 year period

REF: MAS

100/4, 5302/1

Clrs T D Gair and M Murray have given notice of their intention to move the following Notice of Motion at the Ordinary Meeting of Council on Wednesday 2 April 2008.

“THAT all Development consents issued by Council be for a maximum period of 5 years as allowed under the provisions of the E & P Act, unless otherwise determined by Council at the time of determining the Development Application”.

COMMENTS FROM DIRECTOR ENVIRONMENT & PLANNING

Five (5) years is the maximum time allowable under the Act. No extensions are possible. Council's current policy is for consents to be issued for two (2) years. With a one (1) year extension possible upon request, this gives three (3) years for a consent to be activated which is considered to be adequate for the vast majority of applications. Under Council's current policy applicants can, at the time of lodgement, request consideration for an extended life to either three (3), four (4) or five (5) years.

RECOMMENDATION

SUBMITTED FOR DETERMINATION.

COMMITTEE REPORTS

COMMITTEE REPORTS TABLED

c-CR1 Management and Advisory Committee Reports

REF.	DCS	107/1
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Submitting minutes of three (3) Committee meetings that will be tabled for information.

REPORT

1. Minutes of the 2007 Annual General Meeting of Southern Councils Group held 7 March 2008.
2. Minutes of the 1st Business Meeting of 2008 of the Southern Councils Group held 7 March 2008.
3. Minutes of the Water & Sewer Advisory Committee meeting held 13 February 2008

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

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

CORPORATE SERVICES DIVISION

CS1 Closed Council

REF.	DCS	107/9
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To consider moving into Closed Council.

REPORT

1. BACKGROUND

The following confidential reports have been distributed separately:

CS-1 LEISURE CENTRE RE CONSULTANT APPOINTMENT FOR VERIFICATION OF VALUE OF LAND 100/4 & 7181

SUPPLEMENTARY REPORT

CS-2 HANCOCK v WSC PN1720080, 1421/1

TS-1 MITTAGONG WATER SUPPLY AUGMENTATION - TENDER ASSESSMENT 7740/11

TS-2 ASSIGNMENT OF WASTE CONTRACTS 7500/19.1, 7501/23

2. STATUTORY

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

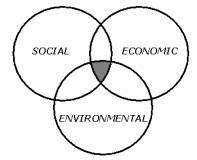
Subject to the provisions of Section 10 of the Act, so much of a meeting may be closed as comprises certain information as outlined in Section 10A(2).

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

Section 10B

(1) *[Time spent closed to be minimised] A meeting is not to remain closed during the discussion of anything referred to in section 10A(2):*

(b) *Except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and*



- (c) *If the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret-unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.*
- (2) *[Qualification of 10A(2)(g)] A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that:*
- (a) *are substantial issues relating to a matter in which the council or committee is involved, and*
 - (b) *are clearly identified in the advice, and*
 - (d) *are fully discussed in that advice.*
- (3) *[Qualification of 10A(3)] If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).*
- (4) *[Irrelevant matters] For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:*
- (a) *a person may misinterpret or misunderstand the discussion, or*
 - (b) *the discussion of the matter may:*
 - (i) *cause embarrassment to the council or committee concerned, or to Councillors or to employees of the council, or*
 - (ii) *cause a loss of confidence in the council or committee.*

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

3. DIRECTOR GENERAL'S GUIDELINES

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

RECOMMENDATION

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

CORPORATE SERVICES DIVISION

- CS-1 LEISURE CENTRE RE CONSULTANT APPOINTMENT FOR VERIFICATION OF VALUE OF LAND 100/4 & 7181

Relevant Legal Provisions

This report is placed in Closed Committee under clause 10A(2) (c) of the Local Government Act 1993 as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Brief Description

Reporting on the expressions of interest submitted by consultants for appointment to verify the value of land proposed to be sold in respect of the Leisure Centre.

Public Interest

It would on balance be contrary to the public interest to consider this information in Open Council because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

SUPPLEMENTARY REPORT

- CS-2 HANCOCK V WSC PN1720080, 1421/1

Relevant Legal Provisions

This report is placed in Closed Committee under Clause 10A2(g) of the Local Government Act, as it contains information that references advice that may be subject of legal professional privilege.

Brief Description

Reporting on a legal matter between Wingecarribee Shire Council and Mr & Mrs Hancock and claim for professional fees by Bohdan Bilinsky.

Public Interest

It would on balance be contrary to the public interest to consider this information in Open Council because it contains information that may be subject of legal professional privilege.

Barry W Paull
Director Corporate Services

27 March 2008

TECHNICAL SERVICES DIVISION

- TS-1 **MITTAGONG WATER SUPPLY AUGMENTATION - TENDER ASSESSMENT** 7740/11

Relevant Legal Provision

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

Brief Description

Presenting details of tenders for the structural design and construction of a water supply reservoir at Willow Vale and construction of associated pipelines to augment the Mittagong water supply system.

Public Interest

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

- TS-2 **ASSIGNMENT OF WASTE CONTRACTS** 7500/19.1, 7501/23

Relevant Legal Provision

*This report is placed in Closed Committee and should be treated as **CONFIDENTIAL** in accordance with the provisions of Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*

Brief Description

Reporting on the proposed sale of Staples Bros Pty Ltd, the Contractor providing Domestic Waste Collection and RRC Transportation services to Council, and the subsequent assignment of these contracts.

Public Interest

It would be contrary to the public interest to consider this information in Open Council because it contains information which could prejudice the commercial interests of a party with whom Council has contractual arrangements.

2. **THAT** the minutes of the Closed Council part of the meeting (being the Council's resolution) be made public.
-

M J Brearley
Director Technical Services

27 March 2008
