

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

18 June 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, 25 June 2008** commencing at **3.30pm**.

Yours faithfully

Mike Hyde
General Manager

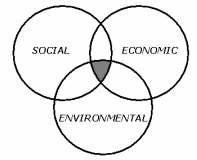
3.30pm	Council Meeting begins
5.30pm	Questions from the Public
6.30pm	Closed Council

BUSINESS

1. OPENING OF THE MEETING
2. PRAYER – *PASTOR DONNA JENSEN, SOUTHLANDS CHRISTIAN CHURCH*
3. PUBLIC FORUM
4. APOLOGIES
5. ADOPTION OF MINUTES OF ORDINARY MEETING HELD ON *WEDNESDAY, 11 JUNE 2008*
6. BUSINESS ARISING FROM THE MINUTES
7. DECLARATIONS OF INTEREST
8. MAYORAL MINUTE (*if any*)
9. OPEN COUNCIL CHAIRED BY *CLR LARRY WHIPPER*
 - 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;

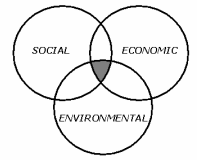
TEAMWORK, INNOVATION and CO-OPERATION in our business;

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

LEADERSHIP in the growth and prosperity of our community.



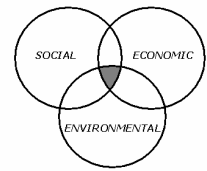
ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth St,
Moss Vale on Wednesday, 25 June 2008



DECLARATIONS OF INTEREST

DECLARATION OF INTEREST
101/3

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



VISITOR

REPORT OF CORPORATE SERVICES DIVISION

v-CS1 Draft Management Plan, Budget and Revenue Policy

REF: FSM

501/2008, 2120/2008

Submitting a report on Council's Draft Budget/Management Plan and Revenue Policy for 2008/11.

REPORT

BACKGROUND

Council's Draft Management Plan including the Annual Budget and Revenue Policy was endorsed by Council on 14 May 2008 and placed on public exhibition from 19 May to 16 June 2008. During this exhibition period a series of community information forums was held at the Henrietta Rose Room at Bowral, Bundanoon Hall, Moss Vale Theatre, Bowral Memorial Hall and Lake Alexandra Mittagong to provide information on both the WOFE and IRS proposals. These information forums offered interested persons the opportunity to obtain more detailed information and speak with Council officers about the special rate variation and the WOFE and IRS programs.

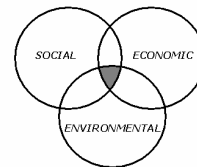
The Draft Budget endorsed by Council indicated a balanced budget. To date there have been a number of additional items identified as requiring funding in 2008/09 and Council will need to determine its position on these requests. It is noted that Council is still awaiting advice from the Minister as to its application for a special rate variation above the rate pegging limit of 3.2%.

All available income including investment interest and development control income has been identified and included in the draft budget as has additional income from the cancellation of the internal loans from the Property Development Reserve. It should be noted that it is unlikely that there will be any supplementary funds available for allocating on additional items at quarterly reviews as has been the case in past years, therefore it is imperative that the budget be closely monitored.

Recognition also needs to be made of the possible impact on the budget of the decline in development activity currently being experienced within the shire.

(a) **Additional Items**

Council resolved at its meeting on 11 June 2008 that \$30,000 be allocated in the 2008/09 budget to fund the Friendship/Sister City Relations initiatives. It is recommended that this item be funded from the Contingency Budget with \$29,000 coming from the 2007/08 budget and the remaining \$1,000 from the 2008/09 Contingency budget.



(b) Fees and Charges

As requested by Council, non statutory fees and fees not increased or reviewed by Managers have been increased by 3.2% and rounded to the nearest \$0.05 in the revenue policy. During the exhibition period a further review of Council's draft fees and charges was undertaken with a number of amendments to the fees having been identified. A summary of these amendments is included on **Attachment 1** for information and it is recommended that these fees be placed on public exhibition and included in Council's Revenue Policy for 2008/09.

(c) Water Charges – Business and Mining Consumers

Council has requested that a further review be conducted of the tariff for business and mining consumers with a view to increasing the tariff. A report will be brought to a future meeting of Council with a view to recommending a significant increase in business tariff, more in line with the Tariff (2) for residential customers. Subject to Council's concurrence the revised charge for business and mining consumers would then be advertised for (28) days seeking community comment and be referred back to Council for a final decision. It is anticipated that this process will be completed to amend business tariffs from the next full water billing period commencing September 2008.

MANAGEMENT PLAN/BUDGET SUBMISSIONS

Council's Management Plan/Budget was placed on public exhibition for 28 days from 19 May to 16 June 2008. As at 16 June 2008, (3) submissions had been received on the Infrastructure Renewal Strategy rate increase and (2) have been received on the Management Plan. Summaries of the submissions received are included on **Attachment 2** for information while copies of the submissions have been placed in the Councillor's room for perusal.

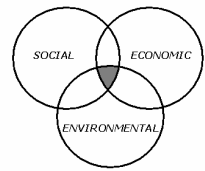
ATTACHMENTS

There are two (2) attachments to this report:

1. A summary of amendments to the Draft Fees & Charges
2. A summary of the submissions received on the Infrastructure Recovery Strategy & WOFE and Management Plan

RECOMMENDATION

1. THAT Council considers the submissions on the draft Management Plan, Budget and Revenue Policy.
2. THAT the draft 2008/2011 Budget/Management Plan and Revenue Policy (including amendments as recommended in this report be adopted, noting that advice is still pending from the Minister for Local Government regarding Council's Special rate Application.
3. THAT the minor amendments to the draft Fees and Charges be included in the 2008/09 Revenue Policy.
4. THAT consideration of the inclusion of the Wingecarribee Our Future Environment Program and the extension of the Infrastructure Recovery Strategy Works in the 2008/09

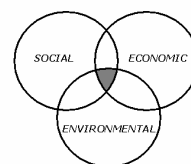


Management Plan / Budget be deferred pending advice from the Minister for Local Government.

5. THAT consideration of the matters detailed in recommendation (4) be referred to a meeting of council on the first available date after formal advice is received from the Minister.
 6. THAT the additional \$30,000 budget request for Council's sister city relationship with Kaifeng City in China be funded from Council's 2007/08 and 2008/09 contingency vote.
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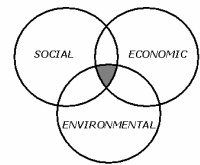
Barry W Paull
Director Corporate Services

20 June 2008



ATTACHMENT 1

2008-09 DRAFT FEES AND CHARGES - changes since exhibition draft					
Section	Detail	In Draft (Incl GST)	Action	Change Amount	Change (Incl GST)
	<u>Developers Contribution Rates Schedule - from 1 August 2007</u>				
	Water Supply	\$ 4,000.00	Increase	\$ 902.00	\$ 4,902.00
	WasteWater - Sewerage	\$ 5,500.00	Increase	\$ 950.00	\$ 6,450.00
6.2	Large Premises or Inspections or 1 hour or more	\$ 143.08	Increase	\$ 14.32	\$ 157.40
	Improvement Notice Fee	\$ 330.00	Increase	\$ 33.00	\$ 363.00
	Temporary Food Stall (Non charity only)	\$ 69.35	Increase	\$ 10.65	\$ 80.00
10d	Public Liability Insurance	\$ 22.00	Increase	\$ 22.00	\$ 44.00
	also increase throughout fees and charges under Halls where Public Liability Insurance appears				
10.1.3	Meeting Room - 9am to 6.00pm or 6.00pm to 12midnight		Add Description		
10.1.10	Southern Adult Education College per year	\$ 1,155.00	Delete	-\$ 1,155.00	
12.3	Turnover Contribution across all sales	0.000%	Add		0.15%
13.4.1	<u>Installation Approval</u> \$146.29 (Approval to install...) + \$48.76 (Environ...Levy)		Increase		
13.4.2	On-Site Sewer Management - Approval to Operate	\$ 35.25	Delete	-\$ 35.25	
13.4.2	On-Site Sewer Management - Application & Renewal		Insert	\$ 33.00	\$ 33.00
13.4.3	Application and Renewal Fee	\$ 32.00	Delete	-\$ 32.00	
	Inspection Fee (for properties <3000sqm)	\$ 49.90	Increase	\$ 1.60	\$ 51.50
	Inspection Fee (for properties >3000sqm)	\$ 66.50	Increase	\$ 2.15	\$ 68.65
13.5.15	Professional Engineering or Town.....per hour	\$ 57.20	Increase	\$ 1.85	\$ 59.05
14.1	Insert additional description and information only		Change Description		
15.2	Copies of Drainage Diagrams	\$ 56.75	Increase	\$ 0.25	\$ 57.00
15.2.1	Over the counter and same day	\$ 103.20	Decrease	-\$ 0.20	\$ 103.00
15.2.3	Part Copy Sewer Map	\$ 41.30	Decrease	-\$ 0.30	\$ 41.00
15.3	Outstanding Orders	\$ 103.20	Decrease	-\$ 0.20	\$ 103.00
15.4.3	Plus "Fast Track" Service Fee	\$ 51.60	Increase	\$ 0.40	\$ 52.00
15.5.1	General Town Planning Enquiry	\$ 206.40	Decrease	-\$ 0.40	\$ 206.00
15.5.4	Road Widening Application	\$ 61.10	Increase	\$ 0.90	\$ 62.00
22.4	Copy of Mittagong Rivulet Study (1990) including.....files	\$ 486.00	Delete	-\$ 486.00	
22.4.1	Flood Certificate	\$ 61.10	Increase	\$ 0.90	\$ 62.00
22.4.2	Bowral Floodplain Risk Management Study & Plan (Draft copy August 2005)		Insert	\$ 1,650.00	\$ 1,650.00
22.4.3	Berrima Floodstudy (revised November 2000)		Insert	\$ 440.00	\$ 440.00
22.4.4	Berrima Floodplain Risk Management Study and Plan (Final Report 2002)		Insert	\$ 330.00	\$ 330.00
22.4.5	Mittagong Catchment MG1 Flood Study Report (June 2003)		Insert	\$ 165.00	\$ 165.00
26	Noxious Weeds Enquiry Certificate	\$ 72.25	Decrease	-\$ 0.25	\$ 72.00
30	The income received by these fees goes entirelyday care scheme.		Delete Description		
30.8	Amend part of the Description only		Amend Description		



ATTACHMENT 2

**SUMMARY OF ALL SUBMISSIONS RECEIVED
 DRAFT MANAGEMENT PLAN/ BUDGET & WOFE**

SUBJECT	SUBMISSIONS RECEIVED
Rate Increase	
General Comments regarding funds	1
Swimming Pools	1
Aged care & disability services	1
Total Rate increase	3

Management Plan	
Council's financial management	1
Infrastructure Priorities	1
TOTAL	2
Total Submissions Received on Draft Management Plan & rate increase	2

WOFE	
supportive of renewing the Environment Levy	57
Suggestions on how the levy should be used.	3
TOTAL	60
Total Submissions Received on Draft Management Plan & rate increase & WOFE	63



SUBMISSION RESULTS AS AT 16 JUNE 2008

GENERAL RATE INCREASE & WOFE SUBMISSIONS

	Yes	No	Non committal
Comments / support on the proposed Special Rate variation.	59	1	3

- Of the submissions received, roads, footpaths and cycleways, swimming pools and general infrastructure were listed as priorities
- There were concerns regarding the aged & disabled.
- 2 submissions were in the form of a letter with many suggestions/comments on the Management Plan / Budget & IRS.
- As at Tuesday 16 June, **3 submissions** relating to the IRS.
- As at Tuesday 16 June, **2 submissions** relating to the Management Plan / Budget have been received.
- As at Tuesday 16 June, **60 submissions** in total relating to the WOFE were received.

Community Consultation in relation to Application for Special Rate Variation

1. Telephone Survey

In 2007 Council commissioned an independent telephone survey of a random cross section of the Shire's residents to determine how the community believes that funding from the Environmental Levy should be utilised and to gauge the level of satisfaction with Council's efforts to protect and improve the natural environment. Significant results which arose from the survey were:

- 95% of respondents believed that Council should be involved with the maintenance of public reserves and natural bush areas and 93% responded that Council should be involved in controlling water pollution.
- 86% of respondents feel obliged to do things that help the environment and 82% believed that the community has a major role to play in conserving the natural environment.
- The majority of residents were aware of the existing Environment Levy. The environmental projects that they were most familiar with were supporting volunteer Landcare and Bushcare groups, targeting illegal rubbish dumping and bush regeneration.

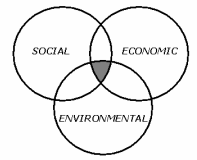
2. Community Newsletter

As previously advised, the February 2008 edition of *Wingecarribee Today* (Council's monthly newsletter which is distributed to all ratepayers) was a special edition related to environmental issues and focused on what has been achieved under the existing Environment Levy program. The Newsletter requested preliminary community input and ideas about whether Council should apply for renewal of the Environment Levy and the work done to date by the Environment Levy program.

Significantly, no submissions were received opposing the idea of renewing the Environment Levy.

3. Advertisements in Local Media

In addition to Council's regular Public Notices in the local papers during the Draft Management Plan exhibition period, special advertisements were also placed in the local papers to alert the community specifically about the proposal to request special rate variations and alerting people about the drop-in Community Forums planned to be held.



4. Press Releases

Media releases were prepared and distributed to the local media at the commencement of the exhibition period of the draft Management Plan and a second was distributed following Council's resolution to reduce the rate increase sought. These releases also reinforced that Council was facilitating the drop-in community forums during the draft Plan's exhibition period to encourage residents and rate payers to meet with Council staff to discuss the draft Management Plan and the framework for the proposed Environment Levy.

5. Community Forums

Seven Community Forums were held in towns around the Shire. Two were held in Bowral and one each in Bundanoon, Moss Vale, Mittagong, Robertson and Berrima.

A display was prepared for these forums which included copies of the draft Management Plan and plans for what works are proposed in the future with the Environment and Infrastructure Levies.

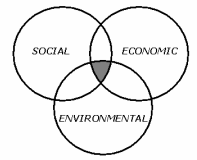
The community was able to drop in anytime during the forum hours to view the displays and ask questions of Council officers in relation to the special rate variation applications and to discuss more broadly the achievements of the current levy and to discuss the projects of the proposed levy. Over 50 people attended and signed the attendance sheets at the forums.

6. Written Comments from Community Forums

During the period of the Community Forums, opportunities were provided to ratepayers to make written comments without the need to formally write to Council.

60 members of the community made hand written comments on the sheets provided at the forums. Comments fell in to the following categories:

- 57 were supportive of renewing the Environment Levy.
- 3 made suggestions on how the levy should be used.
- 0 non-supportive comments were received.



7. Summary of Letter and Emails to Council

24 residents sent supportive letters and emails during the exhibition period for the Environment Levy. Reasons for support included:

- Pleased with river restoration work done to date and needs to continue.
- Critical to continue the Environment Levy to maintain biodiversity and support volunteer efforts.
- The Levy supports restoration projects beyond the capacity of Council's core budget.
- Need to secure existing restoration projects to ensure they do not go backwards.
- Critical to preserving what remains of our natural environment.
- Should be made permanent, not only for 5 years.
- Need to continue advances made by existing Environment Levy in caring for our bushland.
- Existing Environment Levy has enabled Council to correct Environmental problems which had been threatening to become insoluble.
- Allows continuation of Council's existing level of support for Bushcare groups.
- Existing Environment Levy funds have enabled the establishment of Moss Vale Landcare Group and provided seed funding to support projects.
- Existing Environment Levy has achieved a lot but more needs to be done in the future.
- Existing Environment Levy has greatly assisted weed control in bushland reserves.
- If the Environment Levy is not renewed it is likely that some community volunteer Landcare and Bushcare groups will fall away.

Two letters were received objecting to the renewal of the Environment Levy. The reasons were as follows:

- That as pensioners, it is hard to pay any additional rates as the \$250 rate rebate has never increased.
- That they object to the rates being compulsory.
- Spoken to several other rural Council's who advised they do not have Environment Levies.

OPEN COUNCIL

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 2/6/2008 and 17/6/2008.

RECOMMENDATION

THAT the information relating to Development Consent Nos 1 -15 under Delegated Authority be received and noted.

**Development Applications (DA's) Determined – 2/6/2008 to 17/6/2008
(Excluding Small Lot Subdivisions and Domestic Applications)**

	Date Finalised	LUA No.	Property Legal Desc	Property Address	Description
1	10/06/2008	LUA08/0089	Lot 11 DP 547653	Royal Hotel 255-261 Bong Bong Street BOWRAL	POPE (renewal)
2	11/06/2008	LUA07/1436	S/P 41585	High Street 310-318 Bong Bong Street BOWRAL	First Occupation as a Dental Surgery
3	10/06/2008	LUA07/1381	Lot 2 DP 262334	Lot 2, Greenhills Road, BERRIMA	Additions to Dwelling
4	12/06/2008	LUA08/0208	Lot 1 DP 787665	Gibwood Farm Kangaloon Road GLENQUARRY	Dual Occupancy
	3/06/2008	LUA08/0199	Lot 228 DP 751303	Valhalla Sheepwash Road AVOCA	Dwelling - SEPP 1
6	5/06/2008	LUA08/0444	Lots 1-4 Sec 73 DP 1717	43 West Parade HILL TOP	Convert Existing Garage into a Bedroom

**Development Applications (DA's) Determined – 2/6/2008 to 17/6/2008
(Excluding Small Lot Subdivisions and Domestic Applications)
(Continued)**

7	5/06/2008	LUA07/1334	Lot 32 DP 869229	Ditton Hill Yarrowa Road MOSS VALE	Use Existing Cottage as a Tourist Facility
8	16/06/2008	LUA08/0398	Lot 8 DP 8627	31 William Street BUNDANOON	Semi Enclosed Patio Cover Deck Outdoor Toilet Spa Sauna Greenhouse & Siteworks
9	10/06/2008	LUA08/0458	Lot 3 DP 365917 Lot 1 DP 1086496 Lot 2 DP 1086496	RSL CLUB Old Hume Highway MITTAGONG	Alterations to Existing Building
10	11/06/2008	LUA08/0021	Lot 20 DP 848478	Bong Bong Road MITTAGONG	Demolition of Existing Buildings and the Creation of 5 Residential Lots 2 Special Use Lots and 1 Residue Lot
11	4/06/2008	LUA08/0322	Lot 2 DP 1014065	61-63 Main Street MITTAGONG	Hairdressing Salon
12	6/06/2008	LUA08/0040	Lot 11 DP 1025773	Joadja Road BERRIMA	Farm Shed
13	10/06/2008	LUA07/1043	Lot 4 DP 804917	Oolong Park Old South Road MITTAGONG	Boundary Adjustment
14	5/06/2008	LUA08/0004	Lot 6 DP 737470 Lot 307 DP 751262	Belle Cheval Myra Vale Road ROBERTSON	Demolition of Existing Dwelling
15	10/06/2008	LUA08/0549	Lot 3 DP 1053325	13-15 Old Dairy Close MOSS VALE	Occupation of Existing Warehouse for Environmental Products

o-EP2 List of Development Applications Received By Council

REF: DCM 5302

Submitting a list of development applications which have been received between 30/5/2008 to 17/6/2008, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

RECOMMENDATION

THAT the information regarding the List of Land Use Applications Nos 1-15 received by Council be received and noted.

**Development Applications (DAs) Received – 30/05/2008 to 17/06/2008
(Excluding Small Lot Subdivisions and Domestic Applications)**

	Date Created	LUA No	Property Address & Legal Description	Description	Council	Delegation
1	2/6/08	LUA08/0546	Lot 1 DP 119716386 Argyle St, Moss Vale (cnr Kirkham Street – old Westpac Bank)	Change of Use Community Church & Signage – Services Sundays & Evening Youth. Office 5 weekdays		✓
2	11/6/08	LUA08/0588	Lot 35 DP 901520 'KIAORA' Diamond Fields Rd, Mittagong	Demolition of existing decaying w/bd dwelling		✓
3	2/6/08	LUA08/0578	Lot 3 DP 579578 'ROMOLLY' 43 Eridge Park Rd, Burradoo	Demolition of dwelling		✓
4	16/6/08	LUA08/0604	Lot 3 DP 244195 'TUMULLA' Golden Vale Rd Sutton Forest	Recreational Use of MT03 Gyroplane to be housed at Tumulla for security		✓
5	12/6/08	LUA08/0596	Lot A DP 377098185 Old Hume Hwy, Mittagong (stone residence adjacent Highland Marketplace)	Refreshment Room ('Red Olive') & assoc business ID signs. Open 6 nights a week Tuesdays-Sundays		✓
6	10/6/08	LUA08/0576	Lot 1 DP 700453 (near Shell Service Station) Adult Undercover 224 Old Hume Hwy, Mittagong	Change of Use Storage - Office Space Mail Order Distribution. Open Tues to Sat 11.00am to 6.00pm.		✓
7	12/6/08	LUA08/0595	Lot 1 DP 771904 'GLAMORGAN' Kirkland Road, Kangaloon	3 x Lot Rural Subdivision		✓
8	12/6/08	LUA08/0589	Lot 1 DP 567282 'INVERNESS', Moss Vale Rd, Burradoo (Songline PI)	Change of Use from horse stud to Veterinary Hospital		✓

**Development Applications (DAs) Received – 30/05/2008 to 17/06/2008
(Excluding Small Lot Subdivisions and Domestic Applications)
(Continued)**

9	13/6/08	LUA08/0598	Lots 1, 2, 3 Sec 27 DP 75809834-48 Oldbury St, Berrima (between Bowen & Wilkinson Sts)	Amalgamation of 34 Lots & Creation of New 12 Lot Subdivision & Road Adjustment	✓	
10	5/6/08	LUA08/0563	Lot 1 DP 198185 Illawarra Hway, Moss Vale (cnr Elizabeth Street)	Remove garage & alterations to existing Consulting Rooms & additional Car Parking		✓
11	5/6/08	LUA08/0566	Lot 21 DP 879317 Berrima Drive, Berrima (near cnr Carribee Close)	Garage Carport & Alts to Verandah		✓
12	12/6/08	LUA08/0590	Lots 122 & 13 DP 105606552 Caalong St, Robertson (between May & High Sts)	Studio, Powder Room & Store & 3 car carport		✓
13	3/6/08	LUA08/0554	Lot 409 DP 1120046 Southey Street, Mittagong (near cnr Colo Street)	2 x Storey Dwelling. Existing dwg to be demolished under new DA.		✓
14	11/6/08	LUA08/0583	Lot 1 DP 270566 Moss Vale Rd, Bowral (Heritage Park)	2 x temporary Real Estate signs	✓	
15	16/6/08	LUA08/0602	Lot 1 DP 112553918 Station St, Bowral	Witchery retail store & Section 68		✓

o-EP3 2008/9 Wingecarribee Community Assistance Scheme

REF: SPM

1870/2008

Submitting for Council's consideration the final recommendations for financial assistance by the Community Assistance Working Group under the 2008/2009 Community Assistance Scheme.

REPORT

BACKGROUND

This year, Council received **63** applications seeking funding under the 2008/2009 Wingecarribee Community Assistance Scheme, in the following categories:

Category	No of applications	Amount Requested
ARTS & CULTURE	13 applications (10 grants, 3 donations)	\$33,843.00
COMMUNITY SERVICES	24 applications (19 grants, 5 donations)	\$91,282.00
SPORT & RECREATION	7 applications (5 grants, 2 donations)	\$29,453.00
MISCELLANEOUS	17 applications (15 grants, 2 donations)	\$54,163.00
INELIGIBLE	2 applications (2 grants)	\$24,500.00
TOTAL	63 applications (51 grants, 12 donations)	\$233,241.00

Council's annual funding for the scheme is \$100,000 and is awarded to local non-profit organisations for the purpose of implementing and improving community-based projects within our Shire.

There was a decrease in the number of applications compared to last year of approximately 25% (down from 80 in 2007/8). This can be partly attributed to new guidelines restricting applications to one per organisation. However, the total amount requested has remained virtually the same (\$233,482 requested in 2007/8).

PROCESS

This year the Grants scheme opened on 6th February 2008 and closed 28 March 2008, allowing seven (7) weeks for potential applicants to prepare and submit their proposals.

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

- (a) Two Information Sessions were conducted for potential applicants to provide an outline of the scheme and process of evaluation; and

(b) Potential applicants were assisted by relevant Council staff by phone or in person.

Following the closing date, the following process was undertaken:

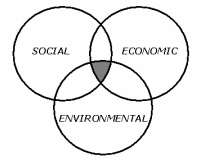
- (c) Initial process of evaluation was conducted, beginning with the initial culling of 'Not Eligible' applications according to the guidelines of the scheme;
- (d) Research was undertaken by Council staff to assist the specialist working groups and the Community Assistance Working Groups in their deliberations;
- (e) Second stage of the evaluation process was then conducted by each of the specialist working groups of Council, namely: the Arts and Culture Board Working Group, Community Services Working Group and the Sport and Recreation Working Group at special meetings held in April/May 2008. The applications relating to Council or community owned facilities were referred to a special meeting of relevant Council staff, also held in May 2008;
- (f) The Community Assistance Working Group then met on 4 June 2008, to conduct the final overall evaluation of all applications, making reference to the recommendations from the specialist working groups and staff comments. Final results are detailed in the document presented with this report, which for confidentiality purposes, has been circulated **under separate cover**.

SUCCESSFUL APPLICANTS

The Community Assistance Committee recommends funding to **55** applicants, for a total amount of **\$100,000**.

Category	No of applications	Amount Recommended
ARTS & CULTURE	13 applications (8 grants, 5 donations)	\$22,158
COMMUNITY SERVICES	22 applications (17 grants, 5 donations)	\$40,243
SPORT & RECREATION	7 applications (4 grants, 3 donations)	\$13,862
MISCELLANEOUS	13 applications (10 grants, 3 donations)	\$23,737
TOTAL	55 applications (39 grants, 16 donations)	\$100,000

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



ISSUES IDENTIFIED DURING ASSESSMENT PROCESS

The Community Assistance Scheme Working Group identified the following issues during the assessment process. These will be followed up as indicated –

- CAS Guidelines at present ask for donation requests to be accompanied by a Financial Statement. Feedback from some applicants is that this is an onerous condition for requests of \$500 or less. This will be reviewed at the next CAS Working Group meeting in July.
- Maintenance and upgrade policies for pre-school buildings owned by Council – these need to be clarified as to what is covered in leases and what pre-school operators should be responsible for as part of their business. Further information will be obtained by staff and this will be reviewed at the next CAS Working Group meeting in July.
- Council rates charged to community owned halls – the Working Group noted the impost on the community of paying Council rates on community owned village halls (including those at Wingello, Kangaloon, Burrawang, Robertson, Avoca, Glenquarry, Balmoral and Colo Vale). This issue will be followed up by Councillors.
- Web pages for community groups – the Working Group requested an update on the project funded from last year's CAS funds to provide a joint approach to web pages for community groups – update to be provided at the next CAS Working Group meeting in July.

NOTIFICATION AND OFFICIAL PRESENTATION

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

The Official Presentation of the Certificate of Entitlements will be held during Local Government Week activities, scheduled to take place on Wednesday 30 July 2008. Therefore funds will become available from 31 July 2008.

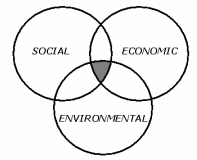
Information packages including instructions on how to claim for the funds will be posted to the successful applicants, together with an invitation to the Official Presentation immediately following Council's approval.

BUDGET IMPLICATIONS

Wingecarribee Community Grants funding allocation for 2008/9 of \$100,000.

ATTACHMENTS

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



RECOMMENDATION

1. THAT Council adopts the recommendations of the 2008 Community Assistance Scheme Working Group as detailed in Attachment 1 circulated under separate cover.
 2. THAT successful applicants be invited to attend a formal presentation to receive Certificates of Entitlement AND THAT this presentation ceremony be conducted during Local Government Week proposed for Wednesday 30 July 2008 commencing at 5.30pm in the Civic Centre Theatre.
 3. THAT correspondence be forwarded to the unsuccessful applicants regrettably advising them of the outcome.
-

o-EP4 Effluent Management in Robertson

REF: EHM

7650

This report in part relates to the ongoing concern of effluent management in Robertson and to alert Council to properties that are presently receiving an effluent pump out service free of charge.

REPORT

BACKGROUND

There are a number of significant issues associated with effluent management in Robertson including growing frustration within the community as a result of delays in the approval, construction and commissioning of the scheme, and also due to significant inequities in the fees and charges that are applied for the effluent pump out service currently under contract.

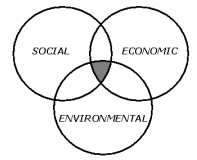
Previous Council reports and policy relating to effluent management in the village date back a decade. Council has for at least the same period raised the expectations of the community of a sewerage scheme.

A history of previous resolutions;

- i) In November 1997 Council resolved that all new buildings in the village be serviced by a regular pump out service*
- ii) December 1998, Council resolved that conventional on site effluent disposal systems may now be considered for new dwellings, except where Council is not satisfied that it will operate satisfactorily*
- iii) A further resolution that existing pump out costs be subsidised. It was considered that the November 1997 resolution unduly disadvantaged residents.*
- iv) August 2001, Council resolved to extend the subsidy to properties that had a pump out service, that the 39 lots in the Dyer subdivision be eligible for the subsidy, that properties eligible for the subsidy be subsidised from the sewer fund, limiting the subsidy to \$1010 p.a. (the rate of subsidy has been calculated using the minimum sewer rate (at August 2001) of \$453 p.a.) and that a cut off date for the subsidy be 7 September 2001.'*

NB: Properties that are not eligible for the subsidy will be subject to fortnightly service charges as defined in the Revenue policy, however they do not pay the quarterly sewer access charge.

The subsidy is funded from the sewer fund on the basis of Council paying the difference between a typical sewer charge and the current contract pump out rate until mains sewer is provided. These policies were established at a time when significantly fewer pump out systems existed and when the sewerage scheme was considered imminent.



Presently, in what is referred to as the Dyer subdivision, effluent from Blackwood and Coachwood Places flows to two large holding wells capable of holding over 100 000 litres each. These holding wells are subsequently emptied by the pump out contractor. Currently the landowners within this subdivision do not pay any fees or charges associated with effluent management despite the fact that they are serviced with what could be described as a sewerage service.

This is in significant contrast to individual landowners outside of this subdivision who are on a pump out service. Many land owners pay the equivalent to the annual sewer access charge of \$520 per annum PLUS a sum determined by any excess generated. An excess is generated when more than 4 500 litres is pumped out per fortnight. The excess can be very high. Accounts suggest that some land owners are required to pay over \$1 500 in excess PLUS the annual equivalent of the sewer access charge. The 4 500 litre baseline for a family of 5 for example equates to 64L per person per day. This is considered a gross underestimated volume of normal daily/use consumption.

To add to an already convoluted situation with regards to effluent management in Robertson the Dyer subdivision was subject to action within the Land and Environment Court in 1999. The approval for the subdivision included a specific condition relating to sewerage reticulation. The court appointed condition included reference to the approved reticulation works being designed such that they were capable of integration with the proposed adjoining reticulation system and;

*'...that the intention of this Condition is, inter alia,
for any owner of a lot in the subdivision to be
capable of connection to the reticulation system
and be liable only for the sewerage rate.'*

Given the variation and inequity of fees and charges associated with effluent management in Robertson it is considered that the residents within the Dyer subdivision be subject to the current sewer access charge (equivalent) instead of paying no charge, whilst receiving the same service that other land owners are paying significantly for.

MANAGEMENT PLAN ISSUES OR IMPLICATIONS

Nil

POLICY IMPLICATIONS

This report does not alter any existing formal policies of Council. The recommendation to apply the sewer charge to residents within the Dyer subdivision will somewhat align these residents with other land owners who pay for the pump out service. If adopted, this proposal will be a pre cursor to the costs associated once the sewerage scheme is introduced.

BUDGET IMPLICATIONS

The recommendation to apply the sewer charge to residents within the Dyer subdivision will ease fractionally the burden on the sewer fund, estimated at approximately \$20 2280 p.a.

ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

(i) Environmental Factors

NA

(ii) Social Factors

NA

(iii) Economic Factors

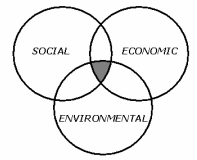
The affected land owners will be required to pay for the service they have been receiving free of charge for a number of years

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

1. THAT Council notify affected land owners within the Dyer subdivision of the decision to apply a charge equivalent to the current sewer access charge.
 2. THAT Council apply the equivalent to the sewer access charge to these residents from 1 July 2008.
-



o-EP5 Landscape and Privacy Hedge Screens

REF: SPM

107/18

The purpose of this report is to inform Council on the legal advice received regarding options available for controlling the proliferation of privacy hedge screens throughout the Shire.

REPORT

BACKGROUND

Extensive planting of privacy hedge screens along road frontages throughout the Shire is having a significant impact on rural views and vistas.

On 23 November 2005, Council formally resolved under Section 54 of the EP&A Act to prepare a Draft Local Environmental Plan in order to regulate the planting of hedges in order to protect scenic rural landscape views and vistas. In March 2006, the Department of Planning formally advised Council that it would not allow the preparation of the Draft LEP to proceed.

Since that time, Councillors and staff have met with Ministers, Local Members of Parliament as well as Departmental Staff in order to build a case to demonstrate the potential significance of the situation if appropriate measures are not put in place to regulate such plantings.

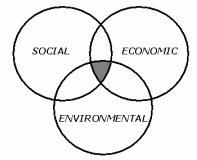
In December 2007, Council sought legal advice on options available to Council for controlling privacy hedge screens.

This report provides a summary of the advice received by Council. A full copy of the legal advice has been circulated to Councillors as a confidential attachment.

LEGAL ADVICE

A combination of 3 potential strategies to achieve Council's overall intent has been suggested. The three strategies are as follows:

- i) Requiring development consent for the planting of privacy hedge screens
- ii) Ensuring that appropriate conditions are applied to consents to prevent the establishment of any new objectionable privacy hedge screens
- iii) Adopting planning controls that give Council the power to require an owner or occupier to remove or modify a privacy hedge screen which does not meet the relevant planning objectives.



Further, it has been assumed that there are five (5) circumstances in which Council may consider it necessary or desirable to regulate privacy hedge screens as follows:

- i) Where new development is proposed
- ii) Where a privacy hedge screen has been planted without development consent in circumstances where consent is required
- iii) Where the conditions of a development consent require a privacy hedge screen to be planted
- iv) Where a privacy hedge screen has been planted without development consent but consent was not required; and
- v) Where a privacy hedge screen has the benefit of existing use rights.

RECOMMENDED ACTIONS

In considering the subject issue, a combination of the following actions has been recommended:

1. Development consent for the planting of Privacy Hedge Screens

Council can attempt to introduce local planning controls so as to require development consent for the planting of Privacy Hedge Screens. However this would need to be done via a Local Environmental Plan amendment. It is also suggested that to limit the number of unwanted development applications, certain Privacy Hedge Screen Planting could be specified as exempt development.

The following Clause and Exempt Development provision have been drafted which could be inserted into the Shirewide LEP.

Suggested New Clause

Conservation of views and vistas

(1) *The objective of this clause is to protect scenic rural views and vistas available from public land.*

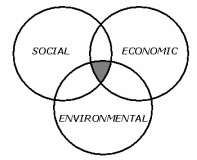
(2) **Definitions**

In this clause the following definitions apply:

Privacy hedge screen means vegetation, whether or not in the form of a hedge, and whether or not in conjunction with existing vegetation, that constitutes, or is likely on maturity to constitute, a barrier to any scenic rural view or vista.

Privacy hedge screen planting means the planting of a privacy hedge screen in a location any part of which is marked in heavy black on the Rural Views and Vistas Map.

Rural Views and Vistas Map means the Wingecarribee Local Environmental Plan 'Rural Views and Vistas Map'



- (3) *Before granting consent to privacy hedge screen planting, the consent authority is to consider the following matters:*
- (a) *the impact of the proposed privacy hedge screen on the quality and significance of any scenic rural view or vista;*
 - (b) *the vantage points from where the quality and significance can be seen or appreciated despite the proposed privacy hedge screen; and*
 - (c) *the class or classes or persons who will be denied the views or vista if the privacy hedge screen is planted.*

Schedule 2 Exempt Development

Privacy Hedge Screen Planting:

- (1) *Will not, on maturity, be a visual barrier extending for more than 50 metres alongside any public road;*
- (2) *Will, on maturity, be separated from any other privacy hedge screen by at least 50 metres;*
- (3) *Will not be located alongside or adjacent to more than half of the total frontage of any public land.*
- (4) *Only in zones RU1, RU2, and E3*

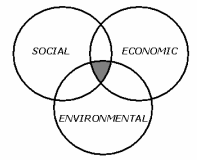
It is noted that the inclusion of such provisions in the LEP must be endorsed by the Department of Planning as the provisions will be unlike anything contained within the Standard Template LEP and therefore will constitute additional local provisions. To date the Department has been reluctant to accept the Council's argument in demonstrating the need for such provisions.

2. Conditions applied to Development Consents

Council has the power to impose conditions of consent which prevent the planting of Privacy Hedge Screens or limit their height and extent and require maintenance of approved landscaping in perpetuity. A condition of development consent is legally valid if it relates to a relevant consideration mentioned in s79C(1) of the EP&A Act and also meets the common law test for validity of a condition, namely, that the condition:

- Is for a planning purpose
- Fairly and reasonably relates to the development; and
- Is not so unreasonable that no reasonable council would impose the condition.

The legal advice confirms that conditions of consent relating to a Privacy Hedge Screen or maintenance of proposed landscaping will ordinarily meet the above requirements and be defensible on merit grounds if council can identify a reasonable and relevant planning purpose which the condition serves, such as the protection of significant views or vistas.



It would therefore be appropriate to devise a standard condition of consent to be inserted on any consent granted to development along those roads identified as having views and vistas requiring that any future landscaping to be carried out on the site is to be subject of a further application to council or where it constitutes 'exempt development'.

It is noted that such action would only apply to applications in the future and not retrospectively applied to consents already granted and also would be subject to Council successfully having the above provisions included under the LEP..

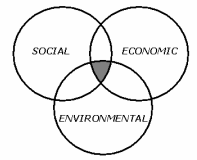
3. Notice Provisions

If Council formed the opinion that the retention of a Privacy Hedge Screen was having an unreasonable adverse impact on scenic rural views and vistas otherwise available from public land adjacent to land identified in heavy black on the Rural Views and Vistas Map, the Council would be authorised to give a notice to the owner or occupier of the land requiring the work specified in the notice to be carried out by a specified date.

Provided below is a suggested clause which could also be included in the WLEP to implement the notice provisions.

Proposed Privacy Hedge Screen notice provision

- (1) *The objective of this clause is to enable the consent authority to protect and enhance scenic rural views and vistas from public land..*
- (2) *Where the consent authority forms the opinion that the retention of a privacy hedge screen is having an unreasonable adverse impact on scenic rural views and vistas otherwise available from public land adjacent to land identified in heavy black on the Rural Views and Vistas Map, the Council may give a notice to the owner or occupier of the land requiring the work specified in the notice to be carried out in respect of the privacy hedge screen by a specified date.*
- (3) *In forming the opinion referred to in sub-clause (2), the consent authority must consider:*
 - (a) *the extent of the impact of the privacy hedge screen on the quality and significance of the scenic rural view or vista;*
 - (b) *the vantage points from where the quality and significance can be seen and appreciated despite the privacy hedge screen; and*
 - (c) *the class or classes of persons who will be denied the views or vista if the privacy hedge screen is maintained.*

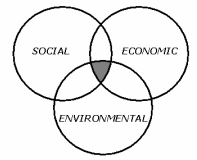


- (4) *Without limiting the kinds of work that a notice referred to in sub-clause (2) may require to be carried out, the notice may require:*
- (a) *the removal, pruning, lopping, chopping down or replacement of the privacy hedge screen; and*
 - (b) *the privacy hedge screen to be reduced or pruned to a particular height or extent and thereafter maintained at or less than that height or extent.*
- (5) *The consent authority may not give a notice referred to in sub-clause (2) unless it has:*
- (a) *provided the relevant owner or occupier with a draft of the proposed notice;*
 - (b) *advised the owner or occupier in writing of the period (not less than 21 days) during which submissions in relation to the draft notice will be received; and*
 - (c) *considered any such submissions.*
- (6) *Nothing in this clause prevents the consent authority amending a draft of a notice referred to in sub-clause (2) as a result of its consideration of submissions as referred to in sub-clause (4).*
- (7) *At any time prior to the date for completion of work specified in a notice referred to in sub-clause (2), the consent authority may, by further notice in writing given to the owner or occupier, modify the notice or extend the time for compliance with the notice.*
- (8) *A person to whom a notice is given in accordance with this clause must comply with the notice (as modified or extended if at all).*

In Council considering the issuing of a notice, the following matters would need to be taken into account:

- the extent of the impact of the Privacy Hedge Screen on the quality and significance of the scenic rural view or vista;
- the vantage points from where the quality and significance can be seen and appreciated despite the Privacy Hedge Screen; and
- the class or classes of persons who will be denied the views or vista if the Privacy Hedge Screen is maintained.

Unlike orders which may be issued by Council under Division 2A of Part 6 of the EP&A Act, a notice of the kind described above would not be appealable to the Land and Environment Court. The only way to challenge such a notice would be on procedural grounds or for other legal error in the issuing of the notice. For example, the Court could set aside a notice that was manifestly unreasonable or if the Council had failed to seek or consider submissions.



It is noted in the legal advice that the Department may have an objection to such a proposal on policy grounds. One alternative that would clearly be available to the Department if it did have such a concern would be to amend the EP&A Act to include controls in Division 2A of Part 6 that give Council similar powers but which would remain subject to the procedures in respect of orders provided by Division 2A.

Power to implement the proposed new planning controls in WLEP 2007

Clause 5 of the *Standard Instrument (Local Environmental Plans) Order 2006*, allows additional provisions to be included in Template LEPs only if they:

- are not inconsistent with the mandatory provisions of the standard instrument; and
- comply with any relevant directions in the instrument.

It is considered that the recommended controls provided within this report are not inconsistent or non-compliant with the *Standard Instrument (Local Environmental Plans) Order 2006* in as much as they relate to a specific local issue and they would not be in conflict with any standard provisions.

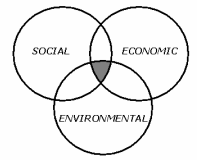
The opinion also supports the power to make the proposed planning controls empowering the council to issue a notice for the following reason:

- Section 4(1) of the EP&A Act defines 'development' to relevantly include 'any other act, matter or thing referred to in section 26 that is controlled by an environmental planning instrument'.
- Section 26(1) of the EPA Act in turn, relevantly provides:
 - (1) Without affecting the generality of section 24 or any other provision of this Act, an environmental planning instrument may make provision for or with respect to any of the following:
 - (a) protecting, improving ..., the environment,
 - ...
 - (f) controlling any act, matter or thing for or with respect to which provision may be made under paragraph (a) or (e),

'Control' in relation to any act, matter or thing is defined in s4(1) of the EPA Act to mean:

- (a) consent to, permit, regulate, restrict or prohibit that development or that other act, matter or thing, either unconditionally or subject to conditions, or
- (b) confer or impose on a consent authority functions with respect to consenting to, permitting, regulating, restricting or prohibiting that development or that other act, matter or thing, either unconditionally or subject to conditions. [my emphasis]

The 'environment' is defined in s4(1) to include 'all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings'. There is a strong argument that 'rural' views and vistas are an aspect of the environment to which planning controls may validly make provision. Therefore controls that 'protect' or 'improve' a view or vista could include measures requiring work in relation to vegetation that obscures or obliterates views and vistas.



SUMMARY

The legal advice obtained by Council supports in principle and provides justification for Council to seek to have clauses added into the LEP which aim to regulate the planting of hedges in rural areas. The difficulty remains to have the Department of Planning agree with the proposed provisions in principle for inclusion in the LEP.

It is noted that the Department of Planning did on a prior occasion suggest that Council attempt to map the areas of concern as they were reluctant to consider a blanket restriction across the entire Shire. To this end, a survey of a large part of the Shire in areas providing high visual amenity has been undertaken and has mapped areas of very high / high / medium significance. The Department of Planning may ask for such work to be validated by a qualified person and to this end it is suggested that Council seek a qualified landscape architect to review and justify the identified locations as mapped. This map would then form the basis of **Rural Views and Vistas Map** and form part of the LEP. Qualified verification of the mapping would be essential in case Council is challenged in the Land and Environment Court in the future on such classifications.

It is obvious from the legal advice that Council does not have any power to take immediate action on plantings already undertaken.

Council Resolution of 11 June 2008

Council at its meeting held on 11 June 2008 passed a Notice of Motion as a Matter of Urgency as follows:

*“**THAT** the DCP to protect rural vistas be completed as a matter of priority so that it can be dealt with in the life of this Council”.*

Response

Council cannot implement provisions of a development control plan on development that is not subject to a development application. At this point in time, Council does not have the power to require a development application for Hedge Plantings and therefore cannot implement a DCP for such.

Notwithstanding the Works and Planning Committee resolved on 5 April 2006

*‘1. **THAT** Council proceeds with the amendments to DCP No. 53 – Siting, Design and Landscaping of Rural Developments, to insert the provisions detailed in Attachment 1 of the report regarding the protection of scenic rural landscape views and vistas and including the minor amendments required as outlined in Attachment 2 of the report.*

*2. **THAT** the Development Control Plan amendments be implemented immediately in accordance with the provisions of the Environmental Planning and Assessment Act and Regulation.’*

Below are the provisions that were inserted into DCP 53 – Siting, design and landscaping of Rural Developments.

Definition: *vegetative barrier planting means the planting of trees and shrubs, other than local indigenous trees and shrubs species, whether in the form of a hedge or otherwise, which constitutes or may constitute at maturity, a barrier to scenic rural landscape views and vistas.*

2.3 What will Council consider when assessing a Development Application?

- Whether the siting, design and landscaping of the development will detrimentally affect the ability of the community to enjoy scenic rural landscape views and vistas from a public place.

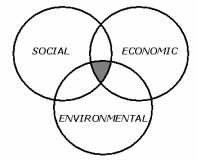
PART 3: Performance Standards for the Siting, Design and Landscaping of Rural Developments

d. Landscape and Landscaping

- i. Landscape comprised of indigenous native plants endemic to the particular area and/or appropriate ornamental plants will be used to provide amenity, privacy and protection and an attractive setting to buildings. Development applications may require a Concept Landscape Plan drawn by an appropriately qualified person. Where a site has a frontage to a public road exceeding 50 metres in length, a Concept Landscape Plan shall be submitted with the Development Application, specifically detailing the plantings around the boundary of the property, compliance with the definition and standards for *vegetative barrier planting* as well as any landscaping required for the screening of buildings or effluent or BASIX requirements. The following standards apply to *vegetative barrier planting*:
 - a) They shall not exceed a maximum linear distance of continuous planting of 50 metres;
 - b) There shall then be a minimum separation distance of 50 metres before the next group of plantings can occur;
 - c) plantings not to exceed half of the total allotment frontage to a public road.

The amendments took effect on 19 April 2006.

In effect Council has put in place provisions to attempt to control the planting of hedges. At this stage it can only be tied to a development application involving the erection of a dwelling house or some other form of development where a DA is required.



MANAGEMENT PLAN ISSUES OR IMPLICATIONS

Not applicable

POLICY IMPLICATIONS

The proposed regulations for hedge plantings would form part of the Planning Policy for the Shire regulated under the Local Environmental Plan.

BUDGET IMPLICATIONS

Funds need to be identified to engage a qualified consultant to confirm the survey mapping which has been undertaken.

ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

(i) Environmental Factors

The need to preserve access to scenic rural landscape views and vistas improves the overall quality of the environment.

(ii) Social Factors

The proposed provisions still maintain the rights of the landowner to plant their own choice of landscaping species. Enjoyment of scenic rural landscape views and vistas are an integral component of the identity of this Shire.

(iii) Economic Factors

Inappropriate plantings come at a direct and indirect cost to the community in a number of ways, particularly in tourism dollars. Land of high scenic quality is an important tourism drawcard for this Shire.

CONCLUSION

The Legal Advice obtained by Council provides options to proceed with further discussions with the Department of Planning to have appropriate controls placed under the LEP to regulate hedge plantings across the Shire. What the advice does not provide is any opportunity for Council to take action on existing plantings.

ATTACHMENTS

There is one attachment, (Legal advice circulated as a Confidential attachment).

RECOMMENDATION

1. THAT Council resolves to engage a qualified Landscape Architect to review the survey mapping already undertaken to justify the identification of areas regarded as being significant rural views and vistas.
 2. THAT Council writes to the Department of Planning seeking endorsement to proceed with a Draft LEP amendment based on the content of the Legal Advice and suggested strategies as detailed in the report.
-

o-EP6 Section 94 Contributions Plan – Roads & Traffic Management

REF: SPM

5701/6

This report provides the results of advertising the Draft Section 94 Contributions Plan – Roads and Traffic Management Facilities and recommends that the Draft Plan be adopted and take effect immediately.

REPORT

At its meeting of 23 April 2008 Council resolved to advertise the Draft Roads and Traffic Management Facilities Developer Contributions Plan for a period of 28-days. The Draft Plan proposed to extend the life of the Plan until 30 June 2010 and update administrative sections of the plan.

The Draft Plan was advertised for a period of 28-days from 21 May 2008 to 18 June 2008 in accordance with Council's resolution of 23rd April 2008 and the Environmental Planning and Assessment Regulation 2000 (as amended).

Notices of the exhibition of the draft Plan were advertised in the Council information page on the 21st and 28th May and 4th June 2008 in the local papers. During this period one submission was received regarding the draft plan from Krason Planning representing Australian Unity and Australand.

SUMMARY OF THE SUBMISSION

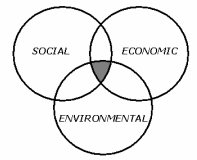
The submission identifies two main issues, which relate to the OLSH Development Application for a Seniors Living Development in West Bowral

The two main issues are:

1. The intersections near Bowral Railway Station; and
2. The culvert on Centennial Road.

Krason acknowledges that Council has already identified that these two items are currently performing poorly and require upgrading. The following extract from their submission summarises their main concerns:

“As the existing and draft Wingecarribee LEPs both enable future growth to occur within the West Bowral area, it is considered appropriate that the draft Developer Contributions Plan for Roads and Traffic Management Facilities be updated to reflect known road and traffic improvements necessary to effectively facilitate future development within this area. The cost of such works can therefore be appropriately apportioned.”



It is recognised that an extensive review of Council's Roads and Traffic Plan is needed so that it can be updated to reflect road and traffic improvements that will be required throughout the Shire to cater for the demands of future development, as allowed by the current and Draft LEPs. However, such an extensive review could take up to 12-months to produce a new shire wide contributions plan for roads and traffic facilities. The implications of such a review are discussed below under the heading 'Budget Implications'.

Having regard to the OLSH Seniors Living Development Application and its relationship with the culvert in Centennial Road and the intersections near the Bowral Railway Station, appropriate apportionments can be calculated by Council and negotiated with Australian Unity and Australand in the context of a Voluntary Planning Agreement (VPA). A VPA in this context would alleviate the pressure for a full and comprehensive review of the Contributions Plan in the short term. Further, if the determination of the OLSH Development Application was dependant on a comprehensive review of the Roads and Traffic Contributions Plan, Council would need to, and the Applicant would also have to accept, a deferral on the determination of the Development Application until such time that the new Plan is adopted.

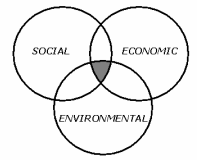
BUDGET IMPLICATIONS

The Draft Plan, should it be adopted, will expire on 30 June 2010. However the Exposure Draft – Environmental Planning and Assessment Bill 2008, under proposed Schedule 5A, Division 4, Existing Contributions Plans, states that Council's current Contributions Plans that do not provide for development contributions only in respect of key community infrastructure (as defined in the Draft Exposure Bill), will be automatically repealed on 30th June 2009.

The current draft plan should be adopted to ensure any future development applications can be charged an appropriate contribution towards roads and traffic facilities in the interim. However it is recommended that a full review of the plan be undertaken to ensure that Council can adopt a Roads and Traffic Facilities Contributions Plan by 30 June 2009 that is fully compliant with the forth coming amendments as proposed in the Exposure Draft. It should be noted that other Shire wide contributions plans should also be reviewed as the draft legislation is geared toward "local" facilities, being 'key community infrastructure'.

ATTACHMENTS

There are no attachments to this report.



RECOMMENDATION

1. THAT the Draft Roads and Traffic Management Facilities Developer Contributions Plan be adopted by Council to take effect upon the date of Notification given in a public newspaper in accordance with the Environmental Planning and Assessment Regulation 2000.
 2. THAT notification of the adoption of the plan be advertised in a public newspaper within 28-days of the date of the Council meeting in accordance with the Environmental Planning and Assessment Regulation 2000.
 3. THAT Council provides a copy of the Contributions Plan to the Director General within 28-days of its adoption in accordance with Section 25AB of the Environmental Planning and Assessment Regulation 2000.
-

o-EP7 Submission on Draft NSW Housing Code / Draft NSW Commercial Building Code

REF: SPM

5606

Seeking Council's endorsement of the submission to the Department of Planning's Discussion Papers on proposed Exempt and Complying Provisions for Residential and Commercial Developments.

REPORT

BACKGROUND

On 8 May 2008, the NSW Government released the NSW Housing Code and the NSW Commercial Building Code for public comment, which outlines a simplification to the State's development approval system for housing and related residential developments and for some forms of commercial and industrial development and related ancillary developments.

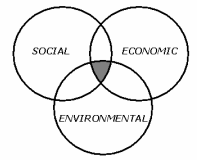
Submissions are required to be submitted by 4 July 2008.

These Codes formulate part of the overall package of reforms currently being rolled out by the Department of Planning. A submission was adopted by Council's former Strategy and Finance Committee on 30 January 2008 on the Discussion Paper released by the Department on Improving the NSW Planning System. As part of Council's previous submission, a number of comments were made in response to the details foreshadowed in changes to the operation of Exempt and Complying Development. A comment previously made by Council relating to a 'one size fits all' code is provided below:

The objective of extending exempt and complying development is supported in principle, however, a mandatory, blanket, one-size-fits-all, state-wide set of criteria has potential problems due to local issues such as development within Drinking Water Catchment Areas. Controls need to be tailored to areas according to environmental, landscape/urban character and social constraints.

Therefore complying development codes need to be reflective of their location and therefore a 'suite' of codes should be produced reflective of the Regional Strategy areas enabling Councils to choose complying development codes which recognise the local area character etc.

The DOP through the Regional Offices should be available to assist Councils development alternative local complying development codes to ensure consistency is met and that Councils will not be met with rejection from the Department when the time comes to submit the Code for approval.



The Codes as released are intended to be largely a 'one size fits all'. There is provision however for local variations. There is an opportunity for Council's to submit local variations which will be listed in the Schedule at the back of the Codes as part of their submission. Suggested variations to be submitted as applicable to Wingecarribee Shire Council are listed below.

An aspect of the Codes which has received extensive media attention is the ability to demolish single storey dwellings and buildings as complying development. The impact of this provision means that numerous buildings of potential heritage value could be demolished without having had a heritage assessment considered. Whilst Council is currently undertaking a heritage survey of the Shire to identify additional potential heritage buildings it is most certainly unlikely that all potential heritage buildings will be identified particularly in rural areas. It is also noted that the submission makes comments in relation to exempt development in heritage conservation areas.

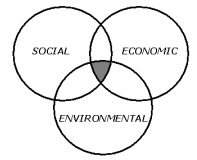
Proposed Local variations to be submitted

- Minimum setback for a single storey dwelling houses and alterations and additions where there are no adjoining dwellings be 6 metres. This is consistent with the Renwick DCP.
- New single storey dwellings should not be considered as complying development in areas where reticulated water and sewer is not available.
- Demolition of single storey dwellings should not be permitted as complying development
- Swimming pools forward of the building line not be considered as complying development
- Fences forward of the building line up to 1.8 metres not be considered as complying development.

The codes covering exempt and complying development are to be given effect through a new State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

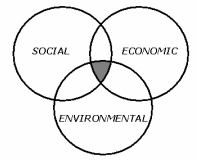
ATTACHMENTS

There is one attachment to this report being the Submission, circulated separately.



RECOMMENDATION

1. THAT Council endorses the NSW Housing Code and NSW Commercial Building Code submission attached to this report and that it be forwarded to the NSW Department of Planning before the closing date of 4 July 2008.
 2. THAT Council as part of its submission seeks the following local variations to the Draft Codes.
 - Minimum setback for a single storey dwelling house and alterations and additions to existing dwellings where there are no adjoining dwellings be 6 metres.
 - New single storey dwellings should not be considered as complying development in areas where reticulated water and sewer is not available.
 - Demolition of single storey dwellings should not be permitted as complying development
 - Swimming pools forward of the building line not be considered as complying development
 - Fences forward of the building line up to 1.8 metres not be considered as complying development.
 3. THAT a copy of Council's submission be sent to the Local Government and Shires Association, Pru Goward, MP Member for Goulburn and Brad Hazzard MP, NSW Shadow Minister for Planning.
-



o-EP8 Unauthorised Conversion of Barn to Dual Occupancy at Yeola Rd, Robertson

REF: DCM

LUA07/1207

Reporting on attached dual occupancy (continuation of use), carport and covered pergola and walkway at 'Karinya,' Lot 2 DP 547434 Yeola Road, Robertson (see **Attachment 1** – locality plan). Applicant: South West Planning Pty Ltd.

REPORT

A development application was received in late 2007 for the continued use of an unauthorised conversion of a barn into a dual occupancy development, a carport and some associated buildings that linked the converted structure to the existing building on the property.

The application was lodged as a result of complaints concerning unauthorised occupation and works within a shed structure at the above property. Upon investigation, the building previously approved in 1997 as a barn with bathroom only, had been adapted for use as a separate occupancy with laundry and kitchen facilities included. The matter was reported to the Legal Committee in March this year and part of the recommendation was to process the subject application and report to Council for determination.

The proposal can be considered in terms of the current LEP under Clause 24 as an attached dual occupancy situated within a 7(b) zoning. However, the proposal does exceed the requirement of 90m² maximum floor area, and accordingly a SEPP 1 application has been lodged with the development application. The proposal is set back from the main road frontages and so there is minimal impact upon scenic vistas or neighbouring properties. The proposal can be supported subject to works relating to additional screening and also further inspection of the property to ensure the septic system is operating effectively.

BACKGROUND

As indicated earlier, Council acted upon complaints that had been received in 2007 and investigated the above property. Various works had been conducted without consent and pictures of these works form **Attachment 2**. Council followed this matter through with the service of Notice of Intention to Serve Orders, and subsequently the development application was lodged for Council to consider the structure as an attached dual occupancy.

In relation to the development works, the owner has been interviewed and has admitted to doing and arranging for much of the work, however, he claims some facilities did previously exist. Council records have no evidence of any facilities in the barn building, other than a bathroom, in the original consent that was issued in 1997. The septic facilities to service the barn building were approved in 1997.

The matter was reported to the Legal Committee on 12 March 2008 and later adopted by Council on 2 April 2008, with recommendations as follows:

1. *THAT Council proceed to assess the development application for the attached dual occupancy structure and that this application be reported to Council for determination.*
2. *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.*
3. *THAT if the development application is refused, Council issue Orders for demolition of all unauthorised works.'*

THE PROPOSAL

As previously outlined, the development application seeks approval for the continued use of a barn converted to an attached dual occupancy along with a carport, covered walkway and pergola. The proposal is shown in **Attachment 3** which depicts floor plans and site plans.

The floor areas of the respective structures are :

Existing dwelling 120.41m²; and
Dual Occupancy 100.43m².

The two buildings have separate septic systems and these have been the subject of previous Council consents.

STATUTORY PROVISIONS

The land is in the 7(b) Environment Protection Landscape Conservation zone and the proposed development is permissible.

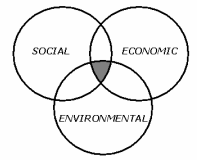
Other LEP provisions

Clause 24 of Council's Local Environmental Plan deals with dual occupancy developments. Detached dual occupancy is not permitted within this zone. On land greater than 1,000m², there must be a floor area of the building not exceeding 90m² for an attached dual occupancy. The proposal will exceed this requirement by 11.6%.

DEVELOPMENT CONTROL PLANS

The following DCPs have been considered:

- i) DCP 53 sets out the requirements for the design, siting and landscaping of rural developments and the proposed development would comply with this provision provided some additional screening work is carried out. This screening is considered necessary due to the irregular mismatched roof forms that exist. The structure, however, is not highly visible from public roads and adjoining neighbouring properties. Screening to the north east will overcome these concerns.



- ii) Residential DCP
Sets out the requirements for dwellings and medium density proposals and some provisions relating to dual occupancy development. The proposal as put forward would comply with the particular provisions of the Residential DCP.
- iii) Draft LEP 2007
The land is proposed to be included in zone E3 Environmental Management, and this use is permissible with consent as an attached dual occupancy.
- iv) SEPP 1 – Development Standards
This policy provides flexibility in the application of development standards in circumstances where strict compliance within those standards would be unreasonable or unnecessary or tend to hinder the achievement of the objectives of the *Environmental Planning & Assessment Act 1979*. In the current instance, the SEPP 1 objection requests departure from the provisions of Clause 24(2b) in Council's Local Environmental Plan 1989. These provisions provide that for an attached dual occupancy, the floor area should not exceed 90m² where the land has an area of 1,000m² or greater.

The objectives relate to:-

- a) identify and protect areas of particular scenic value and ensure the preservation of their cultural, heritage, aesthetic and environmental significance;
- b) to recognise the value of the rural scenic landscape to the local tourist economy;
- c) to permit development & land use activities which are compatible with the heritage and scenic qualities of the key cultural landscape.

Strict compliance with the development standard is unreasonable in the current circumstances, as the proposal is not adding any additional structures other than the walkways. The floor area limitation is designed to limit the scale of rural developments within the non-residential areas. The land area is 40.57 hectares and the buildings are clustered together. The attached dual occupancy is a secondary structure with only one bedroom, and has the capability of a 'weekender' or 'granny flat' rather than a second large residence on the property.

The proposed development is unlikely to have any adverse impact on the environment due to the fact that it is an existing structure, well sheltered from the public vistas, with a need for some additional screening measures to be put in place.

Other impacts on the environment are not considered to be adverse in nature.

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 considers whether the proposed development will have an impact on the water quality. Although the development application has not been accompanied by a Water Cycle Management study or an Effluent Management study, the two septic tanks have prior Council consent and are operating effectively.

ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

(i) Environmental Factors

No adverse impact considered to occur.

(ii) Social Factors

N/A

(iii) Economic Factors

No adverse impact considered to occur.

RELEVANT STATE LEGISLATION

Not applicable.

RELEVANT COMMONWEALTH LEGISLATION

Not applicable.

CONSULTATIONS

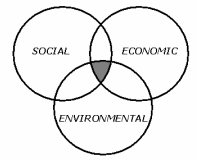
Neighbour Notification:

The development application was neighbour notified for a period of 14 days. Council received one submission indicating they had no objection to the proposed works, provided the materials of construction, as indicated in the plans conform to those currently used to minimise glare from the sun. It is noted, however, that previous submissions were received that alerted Council to the existence of the unauthorised dual occupancy. The issues raised in those particular letters related to the unauthorised use of the site. The letter's author indicated that if this particular owner does not have to adhere to Council regulations, they should also be able to have a second residence, such as a Manager's cottage, on their property.

OPTIONS

Options to Council are to:

1. Delegate authority to the Director, Environment & Planning to determine the application ; or
2. Refuse the application.



Option 1 is recommended. If Council resolves to refuse the development application it must also determine the specific reasons for refusal, as this cannot be delegated.

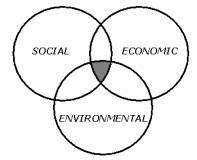
ATTACHMENTS

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

1. Site plan
2. photographs
3. architectural plans of the proposal.

RECOMMENDATION

THAT authority be delegated to the Director, Environment & Planning to determine LUA 07/1207 for the continued use of an attached dual occupancy and carport, and a proposed covered pergola and walkway at 'Karinya,' Lot 2 DP 547434 Yeola Road, Robertson.



o-EP9 Additions to Medical Centre Including Car Parking- St Jude Street, Bowral

REF: DCM

LUA07/1306

Reporting on a proposal for building additions including car parking at St Jude Medical Centre, Lot 12 Section C DP 11838, 21 St Jude Street, Bowral.

Council at its meeting of 11 June deferred consideration of this matter pending the receipt of legal advice on the question of permissibility. Such advice has been sought, however, had not been received in time for inclusion into the Council business paper. Once received, the advice will be circulated to all Councillors.

REPORT

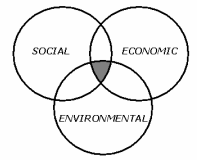
DESCRIPTION OF PROPOSED DEVELOPMENT

The development site

- St Jude's Medical Centre is located on the corner of St Jude Street and Bowral Street, opposite and to the north of Bowral Hospital and opposite and to the west of Bradman Oval. The site adjoins the existing Bowral Conservation Area and falls within the proposed Bowral Conservation Area under Council's draft LEP 2007. The vicinity of the development site is considered to reflect Bowral's core conservation values however it is recognized that the building itself does not have any intrinsic architectural significance. The building presents visually to Bowral and St Jude Street as a painted brick detached dwelling house with terracotta tile roof surrounded by advanced landscaping.
- The applicant has supplied Council with a Statement of Heritage Impact (SHI) describing the building as having been constructed in the inter-war period (C 1930 approx) and operating as a medical facility since 1979, with prior use of the building being as a private dwelling house. The current use predates the adoption of Council's current *WLEP89* by 10 years and the business is currently considered to be operating under 'existing use rights'. The business provides for 3 professional consulting rooms and associated office/staff facilities with an informal gravel car park provided for 5 car spaces located to the west of the building. The existing car park arrangement is considered to be well screened by vegetation both to the street frontage at Bowral Road and to adjoining property.

Proposed development

- The proposal is for building additions to double the scale of the development from 3 professional consulting rooms to 6, with enlargement and formalization of the car parking area to accommodate the 24 car parking spaces required by Council's DCP 12 'Off Street Car Parking, Loading Facilities and Vehicle Access'. Enlargement of the provision for car parking from 5 to the required 24 parking spaces entails removal of a substantial amount of the existing



vegetation from the site and the applicant has accordingly provided Council with a landscape plan in addition to a site plan, elevations and roof plan (Refer to **Attachment 1** to this report).

STATUTORY CONSIDERATIONS

- The site is zoned Residential 2(a) under the zoning provisions of the WLEP89 where-in professional consulting rooms are permissible with Council consent;
- Council's draft LEP 2007 proposes the site to be zoned residential R2 where-in 'health consulting rooms' are also permissible with Council consent. The draft Plan proposes the site to be covered by the draft Bowral Conservation Area;
- Council's current DCP 21 'Professional Consulting Rooms' prohibits professional consulting rooms within the location;

REFERRALS TO COUNCIL COMMITTEES

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

PUBLIC CONSULTATION

- The application was neighbour notified for a period of 14 days in accordance with Council's DCP 45 'Public Notification of Proposed Development'. During the notification period no submissions were received.

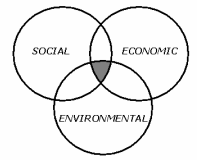
INTERNAL STAFF COMMENTS

ENGINEERING COMMENTS

- The proposed development as lodged for 6 professional consulting rooms generates the need for 24 car parking spaces in accordance with Council's DCP 12. The plans originally submitted with the application indicated 12 car parking spaces (i.e.: deficient by 12 spaces). Amended plans were received 4 April 2008 indicating provision for 24 car parking spaces, however manoeuvrings and access problems would indicate that the site is unable to satisfactorily accommodate the required number of parking spaces.

PLANNING COMMENTS

- No DCU meeting was conducted prior to the lodgement of the application currently before Council. On the 16 October 2007 the applicant had an informal discussion with Council's Area Town Planner and Building Surveyor. Advice was provided at the time based upon a site plan tabled within the Customer Services foyer. Council advice was provided that the St Jude's Medical Centre was operating under 'existing use rights' and that any application for additional consulting rooms, including the need for additional car parking provision, would be assessed upon merit. The applicant was advised to book, and appeared willing to attend, a formal DCU meeting at which the proposal could be examined in detail prior to lodgement;



- The proposal calls for the doubling in the number of professional consulting rooms from the current 3 rooms to 6. Council draws its definition of professional consulting rooms from the *EP&A Model Provisions 1980* which states, in part:

'Professional consulting rooms means... a room or a number of rooms forming either the whole of or part of, attached to or within the cartilage of a dwelling house and used by not more than three legally qualified medical practitioners...'

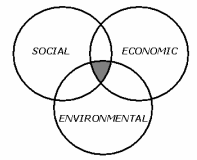
The definition creates a difficulty with the assessment of the application on two fundamental counts.

- In the first instance, the application is for a total of 6 professional consulting rooms which falls outside of the *EP & A Model Provisions 1980* definition of a maximum number of 3 legally qualified practitioners. It is the assessing officer's opinion that the application is more in keeping with a scale consistent with a description as medical centre (not described within the *EP & A Model Provisions 1980* or within *Part 1 of the WLEP 89*), a land use appropriate for consideration within the business zone, but not appropriate for consideration within the residential zones. Whilst Council within the *WLEP 89* has the ability to consider hospitals and professional consulting rooms within the 2(a) Residential zone, no opportunity within the *WLEP 89* land use table for consideration of a medical centre;
- In the second instance, the current and past use of the building since 1979 has been as a medical centre and not as a dwelling house. Accordingly, the building cannot be considered to be compliant with the definition of professional consulting rooms in that it is clearly not:

'...a room or number of rooms forming either the whole of or part of, attached to or within the cartilage of a dwelling house...'

It is to be noted that Council's draft LEP 2007 also limits consideration of 'health consulting rooms' to a maximum number of 3. The above issues would therefore appear to preclude Council's consideration of the application under the definition of *professional consulting rooms*. Consideration of the proposed development as being a medical facility raises the fundamental problem of permissibility, with this form of development prohibited within the 2(a) Residential zone and appropriate for consideration within the business zone of Bowral;

- The scale of vegetation removal inherent in the provision of car park spaces within the amended plans received 4 April 2008 is considered to be detrimental to the streetscape of Bowral. The existing development of 3 consulting rooms and discreet, informal car parking visually presents as a residential building of a scale consistent with other dwelling houses in the area. Although the proposed additions may not necessarily be out of character with this residential building scale, the need for 24 car parking spaces and accompanying vegetation removal is considered to be representative of a commercial rather than a residential scale of development;



- The subject site is located adjacent the Bowral Conservation Area and included within the draft Bowral Conservation Area under the draft LEP 2007. Whilst it is acknowledged that the SHI accompanying the application reveals no intrinsic heritage or architectural value in the subject building, the location is considered to be significant in being located in close proximity to Bradman Oval and other nearby Items of Heritage listed within Schedule 2 of Council's *WLEP 89*. The intrusion of a substantial commercial scale car park into this established residential streetscape is considered unacceptable in terms of visual and heritage impact;

HERITAGE ADVISOR'S COMMENTS

- The application was referred to Council's Consultant Heritage Advisor for comment, being located adjacent the Bowral Conservation Area and opposite an Item of Heritage (Bradman Oval) listed within Schedule 2 of Council's *WLEP 89*. Council's Heritage Advisor's advice received 19.12.2007 forms **Attachment 2** to this report.

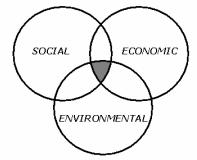
6. CONCLUSION

- The proposed development does not pass the fundamental first hurdle of permissibility, being a medical centre operating under existing use rights within the residential zone. The application although lodged as 'professional consulting rooms' cannot be assessed as such being in conflict with the definition contained within the EP & A Model Provisions 1980. On a merit based assessment, the visual impact of the proposed car park is considered to be unacceptable. Site constraints prevent satisfactory internal access and manoeuvrings to occur for the required 24 car parking spaces. In conclusion, consideration of the enlargement of an existing medical centre is best suited to the business zones within the core areas of Bowral. It should be noted that Council's *WLEP 89* and DCP 21 prevent consideration of a medical centre within the subject location so as to limit the proliferation of health care professionals within the residential zones.

ATTACHMENTS

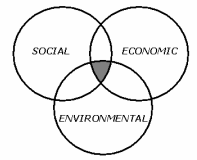
There are two attachments to this report:

1. Site plan, elevations, roof plan and landscape plan prepared by Allman Johnston Architects Job No. 07-804 DA-01 – 03 Issue B, DA 04 Issue C , DA 05 – 06 Issue B & DA07 Issue c dated 16.11.2007;
2. Heritage Advisor's comments received 19 December 2007.



RECOMMENDATION

THAT Council refuses the development application for additions to St Jude Medical Centre including car parking on the grounds of it being outside of the definition of professional consulting rooms, being compatible with the residential character of the locality and being detrimental to the proposed Bowral Heritage Conservation Area.



o-EP10 Upgrading Accommodation & New Conference Room, Marist Hermitage

REF: DCM

LUA08/0057

LUA08/0057 has been received, seeking approval for alterations, additions, conference building, and workshop building at Marist Hermitage, Lot 1 DP 804746, Old South Road, Mittagong, which is listed as an item of heritage under WLEP 1989.

REPORT

At its meeting of 11 June, Council deferred consideration of this matter, pending a site visit.

This was conducted on Wednesday 18 June with Ctrs Campbell-Jones, Yeo and Clark. Also present were two members of the Council's Heritage Working Group.

Their comments are attached.

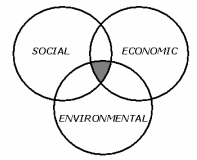
ATTACHMENTS

There are five (5) attachments to this report which have been circulated separately.

1. Location Plan
2. Site Plan and Elevations
3. Extract from Statement of Environmental Effects
4. Previous report to Council from 11 June 2008.
5. Report from National Trust dated 18 June 2008.

RECOMMENDATION

THAT authority be delegated to the Director Environment and Planning to determine development application LUA 08/0057 for alterations and additions, conference room and workshop building on Lot 1 DP804746 at Old South Road, Mittagong.



o-EP11 Centennial Road, Bowral – Proposed Additions to Winery Storage Building

REF: DCM

LUA04/1960

Reporting on proposed additions to winery storage building at Lot 1 DP 435373 Centennial Road, Bowral. Applicant; John R Webb & Associates.

REPORT

This application is for additions to the existing winery and the construction of a central wine storage warehouse between two existing sheds containing wine and barrel store areas at Centennial Vineyards. The proposed winery additions will be approximately 440m² in area, and the proposed storage additions approximately 495m² resulting in a total winery shed area containing winery, storage and barrel storage area of approximately 2035m².

This total building exceeds both the 600m² footprint maximum for a single local rural industry building, and the 1,000m² footprint maximum for all combined local industry buildings as required by Clause 16CA of *Wingecarribee Local Environmental Plan 1989*.

Despite the numerical variation being sought, the proposed shed will not be visible from Centennial Road, and is 'tucked away' at the rear of the site and screened by surrounding vegetation.

The SEPP 1 objection submitted seeking a variation to the maximum footprint requirements is considered supportable, as the proposal does not create a visual impact, and is consistent with the objectives of the 7(b) Environmental Protection (landscape Protection) zone under *Wingecarribee Local Environmental Plan 1989*.

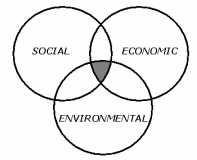
Therefore approval of the development application is recommended.

BACKGROUND

Council's Works and Planning Committee of March 05 considered LUA 04/1960 and resolved to support the proposed wine storage warehouse addition of 336m² area. However support was not given for a "function rooms" wing that was also included as part of the application.

'THAT Council allow the two variations to the requirements of Clause 16A2(c) of the Wingecarribee Local Environmental Plan 1989 and a 20% variation to the requirements of Clause 16CA2(b) of Wingecarribee Local Environmental Plan 1989.'

The applicant was advised in writing on two occasions (April 2005 and August 2007) to supply amended plans deleting the "function room" in order for consent to be issued for the wine storage warehouse only.



On 14 November 2007 the applicant, John Webb, lodged a fresh application (LUA 07/1285) for additions to Winery. The covering letter dated (19 October 2007) states that the plans are *“amended deleting the eastern wing function room and for Council to issue consent for the wine storage warehouse”*

The plans submitted with LUA 07/1285 for the wine storage area did not reflect the plans supported by Council in March 05

On 30 January 2008 Council requested of the applicant amended plans Council previously supported (336m²) and invited the applicant to withdraw LUA 04/1960. This advice was repeated in written correspondence dated 18 February 2008.

No response was received, to this request from Council and accordingly both applications were refused on 12 March 2008.

THE PROPOSAL

Council has previously supported the proposed additional wine storage warehouse of 336m² area, resulting in a total winery shed area containing winery storage and barrel storage area of 1446.75m².

While the total shed exceeds the 600m² footprint maximum for a single local rural industry building, and the 1000m² footprint maximum for all combined local rural industry buildings, the variation was supported as the shed was considered not to be visually prominent from Centennial Road, and is screened by vegetation.

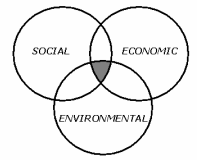
STATUTORY PROVISIONS

i) Existing Zoning – WLEP 1989 (as amended)

The land is Zoned 7(b) (Environmental Protection (Landscape Conservation)), and the proposed development which is a ‘Local Rural Industry’ is permissible with Council consent.

As many Local Rural Industries occur in landscape conservation zonings, it is desirable to have storage and processing areas enclosed and screened. Council may allow the two variations to standards as the positioning of the building is not considered visually prominent.

In addition, the prescriptive building footprint requirements in Council’s current LEP have been removed in the Draft Local Environmental Plan 2007 and replaced with performance based standards.



ii). Development Control Plans

DCP No. 53 sets out the requirements for the design, siting and landscaping of rural developments, and the proposed development recognises, protects and promotes the scenic qualities of its immediate and wider setting. This Rural development respects the landscape setting, particularly in relation to any views and vistas from public spaces.

iii). Draft LEP2007

The land is proposed to be included in Zone E3, and the proposed development would be permissible.

iv). SEPP 1

This Policy provides flexibility in the application of development standards in circumstances where strict compliance with those standards would be unreasonable or unnecessary or tend to hinder the achievement of the objectives of the EP and A Act.

In the current instance, the SEPP1 objection requests a departure from Clause 16C A2(b) and Clause 16CA2(c) in *Wingecarribee Local Environmental Plan 1989*.

In assessing this objection, it is considered that:

- The departure relates to development standards, namely *“no single building or structure used for the purpose of the local rural industry is to occupy a ground level building footprint of more than 600 square metres...”* and *“all building(s)...not to exceed ...a building .footprint of 1000 square metres”*
- The planning objectives for the locality will not be undermined.

The objectives relate to *“identify and protect areas of particular scenic value and to ensure the preservation of their cultural, heritage, aesthetic and environmental significance”*

- Strict compliance with the development standard is unreasonable in the current circumstances because the building is considered not to be visually prominent from Centennial Road and is screened by vegetation and situated behind the main winery building.
- The proposed development is unlikely to have an adverse impact upon the environment because despite the numerical variation the proposed additions will be screened by vegetation.

v). 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 an impact on water quality.

The proposed development is likely to have a Neutral or Beneficial Effect on water quality.

ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES
--

(i) Environmental Factors

It is considered that the proposed development is not to be visually prominent and is screened by vegetation

(ii) Social Factors

It is considered that the proposed development has no negative effect on social factors.

(iii) Economic Factors

It is considered that the proposed development improves functionality and allows the winery to maintain and improve production levels

vi). Matters for consideration (EP&A Act)

The matters in section 79C have been considered and a summary is attached to the file.

vii). Relevant State Legislation

The proposal does not trigger any relevant State Legislative assessment requirements.

viii). Relevant Commonwealth Legislation

The proposal does not trigger any relevant State Legislative assessment requirements.

CONSULTATION

Internal Referrals

No internal referrals have been necessary.

Neighbour Notification

One letter of objection has been received with original application that included the "function rooms" wing. Concern was expressed regarding the use of this wing for functions and weddings. This wing and rooms have been deleted from the proposal.

OPTIONS

The options to Council are to:

- i) Delegate authority to the DEP to determine the development application;
- ii) Refuse the development application.

Option 1 is recommended.

If Council resolves to refuse the development application it must also determine the specific reasons for refusal as this cannot be delegated.

SUMMARY

The site is zoned 7 (b) Environmental Protection (Landscape Conservation) under Wingecarribee Local Environmental Plan 1989, with a restricted range of permissible uses, which includes local rural industries.

While the total shed exceeds the 600m² footprint maximum for a single local rural industry building, and the 1000m² footprint maximum for all combined local rural industry buildings, the variation may be supported as the building is not considered to be visually prominent from Centennial Road, and is screened by vegetation and the main winery building which is of a high architectural standard. The added storage area will enable the winery to maintain its position as one of the premier wineries of the district.

ATTACHMENTS

There is one Attachment to this report being plan of proposal prepared by "Russell Consulting Engineers" Drawing No. 032-100 dated October 2006.

RECOMMENDATION

THAT authority be delegated to the Director Environment & Planning to determine development application LUA2004/1960 for additions to Winery and Storage Building on Lot 1 DP 435373 at Centennial Road, Bowral, by way of approval.



Scott Lee,
Director, Environment & Planning

19 June 2008

CORPORATE SERVICES DIVISION

o-CS1 Determination of Annual Remuneration for the Mayor and Councillors

REF. MAS 101/6

Reporting on the 2008/09 determination of remuneration for Mayors and Councillors by the Local Government Remuneration Tribunal under Section 242 of Local Government Act 1993 for the Mayor and Councillors.

REPORT

BACKGROUND

The Local Government Remuneration Tribunal has handed down its recommendations for 2008/09 and has made its recommendations for fees for Mayors and Councillors in NSW. Having regard to the key economic data and the views of the assessors, the tribunal determined that an increase of 4% in fees for Mayors and Councillors was appropriate.

ADVICE FROM THE REMUNERATION TRIBUNAL

The following comments were made in regard to the categories of Councils:-

Categorisation:

In accordance with Section 239 of the Act the Tribunal is required to determine the categories of councils and mayoral offices at least once every 3 years. Categories of councils and mayoral office were last determined by the Tribunal in 2006. As outlined in the report and determination of 19 April 2006, the Tribunal determined that Category 5 councils should be merged with Category 4 Councils and that Category 5 would be abolished. The Tribunal found that the remaining existing categories were still appropriate and determined no further changes.

Fees:

As part of its 2009 annual review, the Tribunal will be seeking detailed information from councils in regard to categorization in a review of categories of councils. The new fees for councillors and mayors payable from 1 July 2008 are as follows:

	Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Category 4	6,870	9,060	7,300	19,790
Category 3	6,870	15,120	14,610	33,010
Category 2	6,870	15,120	14,610	33,010
Category 1	10,300	19,250	21,910	51,130

REPORT OF DIRECTOR CORPORATE SERVICES

Category 1A	13,740	22,680	29,210	66,100
S4	1,370	7,560	2,930	12,420
S3	1,370	4,530	2,930	8,250
S2	13,740	22,680	29,210	66,100
S1	20,620	30,240	126,160	166,000

**This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).*

DETERMINATION

Pursuant to s241 of the Local Government Act 1993, the annual fees to be paid in each of the categories determined under s234 to councillors, mayors, members and chairpersons of county councils during the period 1 July 2008 to 30 June 2009 are as follows. (Note: Council is included in Category 3).

Councillors: Minimum \$6,870 to Maximum \$15,120
Mayor: Minimum \$14,610 to Maximum \$33,010

BUDGET IMPLICATIONS

Councillors are currently being paid \$14,540 and the mayoral fee is currently \$31,740. Sufficient funding has been provided in the 2008/2009 budget to meet the 4% increase determined by the Local Government Remuneration Tribunal. The Mayor of the day also receives a Councillor's fee.

CONCLUSION

The matter is submitted to Councillors for determination.

ATTACHMENTS

There is one (1) attachment to this report being LGSA Item 7: Fees for councillors and mayors.

RECOMMENDATION

THAT having regard to the determination from the Local Government Remuneration Tribunal under Section 242 of the Local Government Act 1993, Council approves fees for the 2008/2009 financial year for each Councillor at \$15,120 with the Mayoral fee to be set at \$33,010 AND THAT the Mayoral fee be paid in addition to the Councillors' fee.

ATTACHMENT 1

Industrial Relations

Item 7: Fees for councillors and mayors

Fees for councillors and mayors are set to rise by 4% from 1 July 2008 following the recent Determination by the Local Government Remuneration Tribunal.

The Local Government Remuneration Tribunal has handed down its 2008 Report and Determinations increasing fees payable to councillors and mayors by 4% from 1 July 2008.

The Tribunal dismissed the LGSA's comparisons with Queensland and Victoria on the basis that the "...underlying reason for significant fee increases (in these States) has been massive reform of Local Government in each State. Queensland now has 73 councils and Victoria has 78 councils. By comparison NSW has 152 councils. The obvious result of the reforms in Queensland and Victoria is to increase the size not only in area but also population of each of the remaining councils."

The Tribunal again rejected linking mayors and councillors' salaries to those of MP's for the reasons expressed in its 2007 Report.

The Tribunal gave consideration to whether the level of fees payable to councillors and mayors is sufficient to attract good candidates to stand for election. The LGSA argued that the low level of fees discourage a more diverse range of people from seeking election to councils. The Tribunal expressed the view that "it is possible that the current level of fees discourages younger people and/or people of more diverse backgrounds from seeking election to local government, but it is not clear that any increase in the level of fees would improve this situation."

The Tribunal welcomed the Department's and LGSA's initiative in councillor training and development and stated that it will be interested to watch the extent of participation in these programs in the coming years. The Tribunal concluded its Report by noting "...that Councils spend a large proportion of their time on planning matters and that these are currently the subject of reform by the State Government. The Tribunal will monitor the impact of these reforms on Councils' workloads and responsibilities over the coming year."

As part of its 2009 annual review, the Tribunal will be seeking detailed information from councils in regard to categorisation in a review of categories of councils. The new fees for councillors and mayors, payable from 1 July 2008 are:

	Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Category 4	6,870	9,060	7,300	19,790
Category 3	6,870	15,120	14,610	33,010
Category 2	6,870	15,120	14,610	33,010
Category 1	10,300	19,250	21,910	51,130
Category 1A	13,740	22,680	29,210	66,100
S4	1,370	7,560	2,930	12,420
S3	1,370	4,530	2,930	8,250
S2	13,740	22,680	29,210	66,100
S1	20,620	30,240	126,160	166,000

*This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s249(2)). The full Report and Determinations can be found on 2008 Report and Determinations - NSW Department of Premier and Cabinet.

Contact: David Gibson, Director, Workplace Solutions, 02 9242 4140 or david.gibson@lgsa.org.au

o-CS2 Investments as at 31 May 2008

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

REPORT

Listed on **Attachment 1** are Council's investments held as at 31 May 2008. Council is aware of the impact on Council's investments as a result of the recent volatility in the worlds credit markets from issues associated with the US Sub-Prime Mortgage Market. This volatility had seen the mark to market value of Council's investments in CDO's decrease in recent months, however the figures for May show an improvement in the market value of those CDO's of 3.4% or \$712,840.13.

ATTACHMENTS

Investment Reconciliation as at 31 May 2008

RECOMMENDATION

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

ATTACHMENT 1

INVESTMENT RECONCILIATION AS AT 31 May 2008

Bank	Certificates	Rate	Days	Due Date	Value	Consideration	Variance	Total
Lehman Brothers								
<u>Individual Managed Portfolio</u>								
Adelaide Bank FR Sub Debt		bbsw + .50%		9/06/2016	3,500,000.00	3,412,550.56	-87,449.44	
ANZ		8.25%		17/07/2017	750,000.00	676,233.90	-73,766.10	
Bank of Qld Sub Debt		bbsw + .29%		2/12/2010	7,000,000.00	6,933,644.08	-66,355.92	
Elders Rural Bank Sub Debt		bbsw + .85%		13/07/2015	500,000.00	485,544.93	-14,455.07	
Elders Rural Bank Sub Debt		bbsw + .83%		7/09/2015	1,000,000.00	977,927.67	-22,072.33	
Elders Rural Bank Sub Debt		bbsw + .75%		13/10/2015	500,000.00	482,380.55	-17,619.45	
HSBC FRN		bbsw + .28%		22/09/2016	6,500,000.00	6,115,758.29	-384,241.71	
Macquarie Bank Sub Debt		bbsw + .70%		15/09/2014	500,000.00	498,791.13	-1,208.87	
Royal Bank Scotland		bbsw + .28%		17/02/2012	2,000,000.00	1,895,278.88	-104,721.12	
Elders Rural Bank		bbsw + .60%		6/03/2017	1,000,000.00	946,659.01	-53,340.99	
Westpac		bbsw + .35%		21/01/2015	500,000.00	494,750.35	-5,249.65	
St George		bbsw + 0.31%		26/07/2016	1,000,000.00	987,838.39	-12,161.61	
Lehman		bbsw + 0.00%		15/06/2009	560,000.00	510,552.00	-49,448.00	
Liquid Securities					25,310,000.00	24,417,909.74	-892,090.26	
Aphex Glenelg (A-)		bbsw + 1.25%		22/12/2014	2,250,000.00	1,694,174.49	-555,825.51	
Corsair Kakadu (AA)		bbsw + 1.00%		20/03/2014	1,500,000.00	818,588.94	-681,411.06	
Corsair Torquay (AA)		bbsw + 1.20%		20/06/2013	2,500,000.00	1,684,409.42	-815,590.58	
Helium Esperance (BBB+)		bbsw + 1.10%		20/03/2013	2,000,000.00	1,444,613.57	-555,386.43	
Helium Scarborough (BBB+)		bbsw + 1.30%		23/06/2014	2,700,000.00	1,835,887.19	-864,112.81	
Magnolia Flinders (AA)		bbsw + 1.50%		20/03/2012	5,100,000.00	4,369,609.83	-730,390.17	
Omega Henley (AA-)		bbsw + .80%		22/06/2012	2,000,000.00	1,572,480.82	-427,519.18	
Starts Blue Gum (AA-)		bbsw + 1.40%		22/06/2013	1,050,000.00	729,478.87	-320,521.13	
Cypress Tree Lawson (AA)		bbsw + 1.30%		30/12/2010	1,000,000.00	978,614.01	-21,385.99	
MAS6-7 Parkes (BBB+)		bbsw + 2.00%		20/06/2015	2,000,000.00	888,197.13	-1,111,802.87	
Bishopgate Wentworth (AA-)		bbsw + 1.50%		30/09/2010	500,000.00	490,524.13	-9,475.87	
Zircon Coolangatta (AA)		bbsw + 1.30%		20/09/2014	2,000,000.00	1,075,316.44	-924,683.56	
Saphir Endeavour (AAA)		bbsw + 1.30%		4/08/2011	140,000.00	130,492.17	-9,507.83	
Beryl (AA)		bbsw + 0.60%		20/09/2014	4,000,000.00	3,495,893.15	-504,106.85	
Zircon Merimbula (AA)		bbsw + 1.05%		20/06/2013	500,000.00	294,162.67	-205,837.33	
Medium - Long Term Securities					29,240,000.00	21,502,442.83	-7,737,557.17	
Total Securities								45,920,352.57
Bank Accepted Commercial Bills								
NAB	Various	7.73	63	16/06/2008	3,000,000.00	2,960,500.44		
NAB	Various	7.71	60	23/06/2008	1,500,000.00	1,481,226.97		4,441,727.41
Macquarie Cash Management Trust						411,241.66		411,241.66
Short Term								
NAB						5,000,000.00		5,000,000.00
								55,773,321.64

"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

o-CS3 Outstanding Debt

REF. FSM 2104

Submitting a further report on an outstanding debt for Highlands Waste Services.(Reference 28 May 2008, o-CS3 MN 203/08)

REPORT

A number of reports have been submitted to Council in regards to this matter. At Council's meeting of 28 May 2008, it was resolved:

1. *THAT Council defers this matter pending further conclusive evidence that the company known as Highland Waste Services with the ACN of 002 975 742 holds no assets and is proven to be insolvent or otherwise.*
2. *THAT Council writes to Marsdens Solicitors asking if they have had any dealings with Highland Waste Services.*
3. *THAT Councillors be provided with a chronology of events surrounding this matter.*
4. *THAT Councillors also be provided with copies of all relevant minutes, and correspondence relating to this matter including all legal advice.*
5. *THAT the matter be brought back to Council no later than the first full meeting of Council in July for determination.*
6. *THAT Councillors be provided with copies of all legal advices obtained to date.*
7. *THAT the Mayor and General Manager meet with Mr Johns with a view to discussing the settlement of the account.*
8. *THAT Council develops a policy on how Council staff are to recover outstanding debts.*

REPORT

As requested by Council at it's meeting on 28 May 2008 the General Manager has held a meeting with Mr John's who again confirmed to him that the company while not insolvent, it has no assets but does have liabilities. It was also advised that the company could not pay the debt and that the debt was in fact disputed.

A chronology of events and copies of advice received regarding this matter have been provided to Councillors in a Closed Committee report. It is again reiterated that the decision not to instigate legal action in regards to this debt was a commercial decision based on the best available information Council had at that point in time. It was also deemed prudent not to further spend ratepayers funds in chasing this debt.

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

1. THAT the information provided in the report be noted.
 2. THAT Council reconfirms its resolution of the 28 February 2007 to write off the outstanding debt of \$24,016.22 for CS Recycling Resources Pty Ltd
-

Barry W Paull
Director Corporate Services

20 June 2008

TECHNICAL SERVICES DIVISION

o-TS1 Bundanoon Sewerage Augmentation

REF: MBW

7614

Reporting on the proposed engagement of the Department of Commerce to provide project management services to procure works required to augment the Bundanoon Sewerage system.

REPORT

At Council's request, the Department of Commerce has recently submitted a proposal to provide all remaining project management services for the Bundanoon Sewerage Augmentation. The Executive Summary from this proposal is reproduced as attachment 1 to this report.

The proposal sets out the costs for the remaining project management services as an "upper limit fee" of \$640,997. This does not include "disbursements" or "specialist service providers", which may or may not involve Commerce personnel. The total estimated cost of the project management engagement is \$988,667. This includes an allowance for the provision of software to operate the sewage treatment plant and is considered to be a reasonable cost for the extent and nature of the work involved.

As Council will be the Principal under all contracts it will be necessary to execute a standard "Principal-Agent Agreement". This agreement will enable the Department of Commerce to act as Council's agent in relation to contracts with other parties.

The revised budget for the Bundanoon Sewerage scheme and a recommendation to accept a tender is scheduled to be reported to Council on 9 July 2008.

MANAGEMENT PLAN ISSUES OR IMPLICATIONS

This project is included in Council's Management Plan and the Sewerage Strategic Plan.

ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

- (i) **Environmental Factors**
Detailed environmental assessment of this project was carried out for the Environmental Impact Statement and the development approval process has already taken place.
- (ii) **Social Factors**
The EIS also considered social impacts.

(iii) Economic Factors

Upgrading the sewerage system will allow the lifting of the development moratorium currently in place for Bundanoon, which will facilitate the economic development of Bundanoon and the Shire.

ATTACHMENTS

Executive summary from Department of Commerce proposal.

RECOMMENDATION

1. THAT the Department of Commerce's proposal number WBS 48348 for project management services in relation to the Bundanoon Sewerage Augmentation be accepted;
 2. THAT a Principal - Agent Agreement be executed with the Department of Commerce, under the Common Seal of Council, for procurement of the proposed works.
-

M J Brearley
Director Technical Services

19 June 2008

ATTACHMENT 1

1. EXECUTIVE SUMMARY

1.1 General

The Department of Commerce (Commerce) has pleasure in submitting this proposal for the provision of project management and technical services for the Bundanoon Sewerage Augmentation scheme.

The Augmentation includes:

- Upgrading of five (5) existing sewage pumping stations
- Construction of an additional two (2) sections of the trunk main to the STP
- Upgrading of the STP to improve effluent quality and to provide capacity for projected population growth to 2031
- An effluent management system involving the partial reuse of reclaimed water for agricultural irrigation, the seasonal watering of Ferndale Reserve soccer fields and release of the remaining reclaimed water to Reedy Creek; and
- Provision of a telemetry system to continuously monitor the operation of the STP and sewage pumping stations.

1.2 Fee

Commerce's proposed estimated time based upper limit fee for the services outlined in this proposal is \$988,667 (excluding GST) made up as follows:

Summary - Estimated Upper Limit Fee

Activity	Amount
Fees	\$
Project Management incl Overview	63,562
Project Manager Environmental Management Plan	5,000
Tendering	39,880
Contract Administration	495,990
Post Completion Period	36,565
Sub Total	640,997
Service Providers (NSW Water Solutions)	
Tendering	30,310
Technical Services (incl SCADA system configuration & PLC Programming)	234,809
Post Completion Period	8,624
Sub Total	273,743
Disbursements	73,927
TOTAL	988,667

Optional technical services offered include:

orks testing of Mechanical and Electrical Components	20,658
Aeration testing and pre commissioning	22,523
Total Optional Services	\$43,181

1.3 Program

This proposal is based on calling tenders for the main contract in March 2008, with a construction period of 15 months. Allowance has been made for post completion tasks including responding to issues & defects inspections.

REPORT OF THE GENERAL MANAGER

COUNCIL MATTERS

GENERAL MANAGER'S REPORTS

c-GM1 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.

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 22/08 - 23/08 and Council Weekly Circulars Nos 24/08 - 25/08 be noted.

Mike Hyde
General Manager

19 June 2008

QUESTION WITH NOTICE

OTHER MATTERS

c-NM1	20/2008 – Notice of Motion – Campaign Expenses for Local Government Election
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REF:	MAS
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100/4 105

Reference: Ordinary Meeting of Council 11 June 2008 Ref: c-NM1 MN 100/08

“THAT as the mover was not present, this matter be deferred for consideration to the Ordinary Meeting of Council to be held on Wednesday, 25 June 2008”.

Clr TD Gair has given notice of his intention to move the following Notice of Motion at the Ordinary Meeting of Council on Wednesday 28 May 2008.

THAT candidates in the forthcoming Local Government election give a voluntary undertaking to the community of the Wingecarribee Shire that the total expenditure for campaign expenses will not exceed \$10,000 in total either for a team grouping or an individual.

RECOMMENDATION

SUBMITTED FOR DETERMINATION.

QUESTION WITH NOTICE

c-NRM2 24/2008 – Notice of Motion of Rescission – Sutton Forest Hotel & Restaurant

REF: DCM

100/5, LUA07/1118

"We hereby give notice of our intention to move at the next meeting of Council that the motion passed at the Ordinary Meeting of Council held on 28 May 2008 **be rescinded**: (Reference: v-EP1 – OC 86/08)

1. *THAT Council approves the amended plans as submitted for nine (9) accommodation buildings at the Sutton Forest Hotel and Restaurant with the usual conditions of consent plus special conditions dealing with maximum occupancy and length of stay.*
2. *THAT those people who made a submission be advised of Council's decision.*

Signed Dated 12 June 2008
Clr LAC Whipper
Clr J Clark
J Clr J Mauger"

RECOMMENDATION

SUBMITTED FOR DETERMINATION.

QUESTION WITH NOTICE

c-NM3 25/2008 – Notice of Motion – Sutton Forest Hotel & Restaurant

REF: MAS

100/4 105

Clr LAC Whipper has given notice that should the above Notice of Motion of Rescission be passed it is his intention to move the following Notice of Motion at the Ordinary Meeting of Council on Wednesday 25 June 2008.

1. *THAT Council defers any further consideration on the amended plans for the Sutton Forest Hotel & Restaurant until meaningful consultation occurs between the applicant, residents and Council staff.*
2. *THAT this consultation seek to explore ways of reducing the bulk and scale of the building as well as the visual impact upon adjoining neighbours, while still providing viability for the proposal by the applicants.*
3. *THAT an amended recommendation for this application be brought back to Council at the last meeting of July 2008 for Council's consideration".*

RECOMMENDATION

SUBMITTED FOR DETERMINATION.

QUESTION WITH NOTICE

QUESTION WITH NOTICE

c-QWN1 QWN 01/08 – Recoupment of Loan for Wingecarribee Services Centre – “By way of Shire Wide Section 94 Contribution Plan”

REF. GM 101/2,

To: General Manager
From: Clr T D Gair
Received: 4 June 2008

Subject: Recoupment of loan for Wingecarribee Services Centre – “By way of Shire Wide Section 94 Contribution Plan”

Question: During the last week of May the State Planning Minister, Mr Frank Sartor, clarified, I believe, that community services buildings and facilities were eligible to continue to be included in a Contribution Plan.

On this basis can Council formulate a Section 94 Plan for the Shire with a view to allowing the loan of \$100,000 to the Wingecarribee Services Centre to be recouped as this facility will benefit future residents in the Shire.

Could a response for this question be brought to Council for a resolution by the last meeting of June 2008.

Answer: Director Environment & Planning

Under the draft Environmental Planning and Assessment Bill 2008, Councils will be able to collect contributions to recoup costs for the provision of local and district social services facilities such as the Wingecarribee Community Services Centre.

A Contributions Plan could recoup an apportionment of all donations from Councils funds to the facility, including the value of the land if it is donated. So far Council's monetary contributions include:

- Loan \$100,000
- Additional funding during construction \$85,000
- Land Rental Charge Reserve \$87,500
- TOTAL \$272,500

The proposed development contributions must be based on a reasonable apportionment between existing demand (Council's responsibility) and future demand (contributions). Preliminary calculations based on current population, projected population growth and life of the facility indicates that Council may be able to recoup approximately 30% only of its own contributions so far (approximately \$75,000) because much of the demand for such a centre exists already rather than being generated simply by new development.

It may also be possible to collect funds with Voluntary Planning Agreements through negotiations with applicants of proposed senior living developments and urban release areas in particular.

COMMITTEE REPORTS

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 five (5) Committee meetings that will be tabled for information.

REPORT

1. Bong Bong Common Management Committee meeting Tuesday 5 February 2008
2. Exeter Park Management Committee meeting Monday 5 May 2008
3. Mittagong Memorial Hall Management Committee meeting Thursday 1 May 2008
4. Penrose Hall and Recreation Reserve Committee meeting Monday 7 April 2008
5. Water & Sewer Advisory Committee meeting Wednesday, 21 May 2008

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

THAT the information contained in the five (5) Committee Reports be noted.

COMMITTEE REPORTS

COMMITTEE REPORTS ATTACHED

c-CR2 Rural Fire Service District Liaison Committee (*Refer minutes page 75*)

REF	GM	6433/5
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Submitting minutes of the Rural Fire Service District Liaison Committee meeting held on Wednesday, 30 May, 2008.

RECOMMENDATION

THAT the recommendations as detailed in the minutes of the Rural Fire Service District Liaison Committee meeting held Wednesday, 30 May 2008 be adopted.

c-CR3 Legal Committee (*Refer minutes page 78*)

REF	DEP	107/22
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Submitting minutes of the Legal Committee meeting held on Wednesday, 11 June, 2008.

RECOMMENDATION

THAT the recommendations as detailed in the minutes of the Legal Committee meeting held Wednesday, 11 June 2008 be adopted.

**MINUTES OF THE RURAL FIRE SERVICE DISTRICT LIAISON COMMITTEE
MEETING HELD ON FRIDAY, 30 MAY 2008**

File 6433/5

PRESENT: Mike Hyde (General Manager) - Chair
Ashley Frank (District Manager)
Bill Dunne (Group Captain)
Bob Simpson (Community Safety Officer)

IN ATTENDANCE: Cllr Jim Mauger
Roz Piper (Minute Taker)

APOLOGIES: Mayor Gordon Lewis

The meeting commenced at 2.07pm.

1. ADOPTION OF MINUTES

Recommendation SLA 01/08

THAT the minutes of the previous meeting held on Tuesday, 6 November 2008 be accepted as a true and accurate record.

BUSINESS ARISING

Blue and white hydrant markers:

Ashley Frank advised that the RFS Operations Officer has communicated with Council's Resources Co-ordinator on two occasions with recommendations of markers that needed repaired or replaced but had not received a response at this point in time.

Six Monthly Report to 31 March 2008:

Ashley Frank addressed any gaps in the report – i.e.:

Community safety – the development of the Fire Trail Register is still to occur and will be carried out in conjunction with the Bushfire Management Committee. It is still a priority however there are other more important things to be done. Ashley stated that there is a technical issue with the system in that the module for the fire trails hasn't quite finished being developed and it is difficult to put the information into a database that all the agencies can use. However, all are aware of where the trails are.

Hydrant markers – a system for the reporting of markers needing repair or replacement needs to be developed.

Development Applications – these are processed upon request through Council's Planning staff and have to be done within ten working days.

Community Information – plans are being put in place to ensure enhancement of education but there is a need to enhance advice to landowners.

Volunteer Training

Ashley Frank advised that the RFS will be advertising next week for a full time Learning & Development Officer who will be charged with the responsibility of providing the best possible training levels to the volunteers.

Brigade Constitutions

Have until the end of this year to finalise this task and 14 of the 20 constitutions have been completed.

In summary Ashley stated that everything was running well and the working relationship between Council and the RFS was excellent. The challenge for the future will be the early detection and suppression particularly in water catchment. The RFS has a service contract for fixed wing water bombers to be brought in from Orange or Cowra if needed to drop water or retardant on remote fires and they have the capacity at the moment for 45,000 litres of retardant (which is a fertiliser based product). This new base is the only static fixed wing bomber base on the eastern side of the dividing range.

Fire Station Updates:

Ashley Frank believes all station projects were going well and that real progress has been made working with Council's Property Co-ordinator and Property Officer. By the end of this year the projects currently outstanding will have been completed.

Bush Fire Management Committee:

Council's Strategic Planner, Bennett Kennedy will fill the position held by Heath James on the Bush Fire Management Committee.

FIRE SEASON OUTLOOK

Ashley Frank indicated that advice thus far from the Bureau of Metrology is that we will experience more extreme weather conditions due to climate change.

CORRESPONDENCE

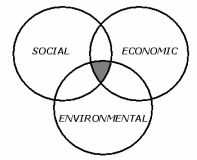
Nil

GENERAL BUSINESS

Clr Jim Mauger stated that he had recently inspected the shooting range at Hill Top and had noted there were some houses built in extremely precarious situations.

Ashley Frank responded that NSW now has one of the best planning tools for building in bushfire prone areas in the world. Bob Simpson added that the biggest issue for him was to ensure that planning is in place soon enough to carry out more hazard reduction in these areas of high hazard. Some hundreds of thousands of dollars had been spent by the agencies on hazard reduction and this Council had received over \$50,000 which had been spent on mechanical hazard reduction works.

Ashley Frank added that there had been some additional money in the Rural Fire Fighting Fund being \$10,500 which will be reimbursed to Council for completing additional work on bush fire prone land.



AGENCY REPORTS

Bill Dunne reported that everything is running very smoothly. The new fire stations and the prospect of a new Control Centre coupled with training are moving along with renewed enthusiasm.

NEW BUSINESS

Development Application for new Fire Control Centre:

Mike Hyde asked when the new Control Centre would begin and Ashley Frank responded that the DA should be received by Council next month. If work commenced in April 2009, the centre could be completed over the two financial years ready for the 2009/10 summer. The centre will be a tremendous benefit for all emergency services in the event of any major disaster and will provide a co-ordination centre that can be used by all agencies.

Ashley Frank advised that Mittagong RSL Club had donated their old generator to the RFS which is approximately 15 years old and has a 15 kVA motor.

Grant Funding:

Bob Simpson stated that the funding bids for 2008/09 by the Wingecarribee Bush Fire Management Committee agencies for hazard reduction, mechanical work, fire trail work totalled \$425,000. Of this amount almost half would be on Council land and he thanked Council's Bush Regeneration Team, Belinda Rowe and Stuart Chadwick who have been submitting the grants.

The meeting concluded at 2.40pm.

COMMITTEE REPORTS

**MINUTES OF THE LEGAL COMMITTEE MEETING
HELD ON WEDNESDAY 11 JUNE 2008**

File No. 107/22

PRESENT:	Clr M Murray (Chairman) Clr P Yeo* Clr J Mauger
IN ATTENDANCE:	Clr N Campbell-Jones Mr M Hyde GM (from 2.00pm) Mr S Lee DEP Mr L Pawlak DCM
APOLOGIES:	Clr P Tuddenham Clr D Gair Mr B Bilinsky

The Meeting Commenced At 1.30pm

(A) NEW MATTERS

1. **Annesley – usage of non-residential facilities** **PN1753570; PN3200;
LUA03/1979; 99/0976**

Investigation of Council's files is continuing and a full report will be presented to a future Legal Committee meeting.

RECOMMENDATION

THAT the information be received and noted.

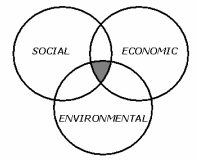
2. **Development Activity – Lot 2 DP 842779 “Oolong Park” Old South Road
Mittagong** **PN1702933; LUA07/1043**

Council has investigated a number of matters regarding the above property.

RECOMMENDATION

1. THAT Council issue a Penalty Notice on the persons on whose behalf the works were conducted for the unauthorised development activity pursuant to Section 127A of the *Environmental Planning & Assessment Act 1979* being civil earthworks and drainage, such works requiring prior development consent under Council's Local Environmental Plan 1989.

Continued ...



-
2. THAT Council issue a Penalty Notice on the persons on whose behalf the works were conducted for the unauthorised development activity pursuant to Section 127A of the *Environmental Planning & Assessment Act 1979* being for tree removal, such works requiring prior development consent under Council's Local Environmental Plan 1989.
 3. THAT Council require the lodgement of a development consent for the ongoing use and completion of works at the site.

3. **Enforcement Actions**

1460/8; 1421/1

The benefits of an enforcement policy are outlined in the article in Attachment 2. A draft policy was prepared in late 2005, and was submitted to the Legal Committee.

RECOMMENDATION

THAT the Enforcement Policy be reviewed and submitted to the Legal Committee prior to 31 August 2008 for consideration.

4. **Article from Developer's Digest**

1430/4

The detail is for the information of Committee members and the Director, Environment & Planning will discuss the implications of these decisions.

RECOMMENDATION

THAT the information be received and noted.

5. **Unauthorised works at 'Belle Cheval,' Myra Vale Road, Robertson**

PN1733300; LUA08/0389

Reporting on unauthorised works at lot 6 DP 737470 "Belle Cheval" Myra Vale Road Robertson.

RECOMMENDATION

1. THAT a Penalty Infringement Notice be issued.
 2. THAT an Order No.1 under Section 121B of the EPA Act be issued.
 3. THAT LUA08/0389 be considered by full Council.
-

COMMITTEE REPORTS

(B) ONGOING MATTERS

Mr Les Pawlak, Development Control Manager 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. Reflections Way, East Bowral – Development consent for 4 lot subdivision – dispute relating to Water & Sewer contributions PN1731500, LUA06/1358

Legal advice has been received from Council's solicitor and the applicant was advised that full payment of the outstanding contributions is required. The release of the linen plan of subdivision will be held until payment is made. The applicant has indicated a preference to mediate the matter.

RECOMMENDATION

1. THAT the matter be deferred to the next Legal Committee meeting on 9 July 2008.
 2. THAT Cllr N Campbell-Jones be delegated to approach the Principal of the Company with a view to resolving the current impasse.
-

7. Usage of premises for dog breeding, Lot 1 DP 842420 Stratford Way, Burradoo and the general keeping of excessive dogs on properties PN 1702934; 502/66

Council served a Notice of Intention to limit the number of dogs on the property to two. The owner of the property advised that the number of dogs has been significantly reduced.

RECOMMENDATION

1. THAT the action continue to check that all dogs on the property are registered and chipped.
 2. THAT sensitive action be taken to further reduce the number of dogs on the property.
-

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

The court has allocated 23-26 June 2008 for the rehearing of the appeal. Preparations for these hearing dates is continuing.

RECOMMENDATION

THAT the information be received and noted.

COMMITTEE REPORTS

9. Boen Boe Piggery (Zammit)

502/8

Letter received from Richard Smyth updating position and recommending way forward (see **Attachment 4**).

RECOMMENDATION

THAT Richard Smyth be authorised to progress the matter as suggested in his letter of 29 May 2008.

10. WSC ats Larry Tuite (Norlex) - Bundanoon Water Extraction

PN1105400; 502/54; LUA07/1170

Awaiting decision by Commissioner.

RECOMMENDATION

THAT the information be received and noted.

11. Compliance Issues

5210/1

Current active Compliance Register has not been attached as staff leave prevented updating of detail.

RECOMMENDATION

THAT an update to the Compliance Register be provided to the next Legal Committee meeting.

GENERAL BUSINESS

CORPORATE SERVICES

12. LGSA request for assistance with legal costs

5454/2; 203/4

A report regarding a request from the LGSA for assistance under the Legal Assistance Policy in the matter of *Gosford City Council -v- Tauszik* (2006) has been provided to Councillors.

RECOMMENDATION

THAT the matter be deferred until the next Legal Committee Meeting on 9 July 2008, with representation at the meeting by a Corporate Services staff member.

COMMITTEE REPORTS

13. Legal Expenses

502

The Director, Environment & Planning will provide an update of recent legal expenses.

RECOMMENDATION

1. THAT Council's Solicitors be advised that mandatory monthly bills are to be provided.
 2. THAT Council will consider removal of Solicitors from the panel if monthly bills are not provided.
 3. THAT a monthly report be provided to the Committee of ongoing legal expenses on a matter-by-matter basis.
-

14. Legal Expenses

502

At the Council Meeting of 14 May 2008, Mr Terry Oakes-Ash asked why there was no cost detail on legal matters when Council had agreed some months ago that legal costs would be updated and presented against each item from time to time. He asked when the next update would appear in the business paper.

RECOMMENDATION

THAT the information be received and noted.

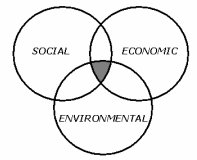
15. Draft WLEP 2007 – Reclassification of Community Land

5900/3

Council has received preliminary advice in relation to the process undertaken for the proposed reclassification of Community Land under the LEP. Council's Solicitor will be available to discuss.

RECOMMENDATION

THAT an Information Session concerning reclassification of Community Land be held at 1.00pm on Wednesday 18 June 2008 in the Nattai Room, to be chaired by the General Manager.



COMMITTEE REPORTS

REPORTS FROM TECHNICAL SERVICES

No reports

REPORTS FROM CORPORATE SERVICES

No reports.

There being no further business, the meeting closed at 2.20pm.

CORPORATE SERVICES DIVISION

c-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:

c-CS1	<u>OUTSTANDING DEBT</u>	2104
c-CS2	<u>BRIEFING ON CURRENT STATUS OF LEGAL MATTER WSC V LEHMAN BROTHERS AUSTRALIA</u>	107/9, 2104
c-TS1	<u>ELECTRICAL & TELEMETRY MAINTENANCE CONTRACT 2008-10</u>	6330/08.5

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.*

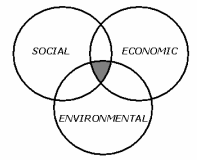
Attention is also drawn to provisions contained in Part 7 of Council's Code of Meeting Practice.

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:



c-CS1 OUTSTANDING DEBT

2104

Relevant Legal Provision

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 and 10A2(b) of the Local Government Act, as it is concerning particular individuals, and the personal hardship of a resident or ratepayer

Brief Description

Submitting a further report on an outstanding debt for Highlands Waste Services. (Reference 28 May 2008, o-CS3 MN 203/08)

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.

c-CS2 BRIEFING ON CURRENT STATUS OF LEGAL MATTER WSC V LEHMAN
BROTHERS AUSTRALIA

107/9, 2104

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

Considering an update on the current status of legal matters. WSC V Lehman Brothers Australia.

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.

c-TS1 ELECTRICAL & TELEMETRY MAINTENANCE CONTRACT 2008-10 6330/08.5

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

The purpose of this report is to provide details of the tenders received for the "Electrical and Telemetry Maintenance Contract 2008-10" and submit a recommendation to Council for acceptance of a preferred tender.

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.

Mike Hyde
General Manager

19 June 2008



ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth Street,
Moss Vale on Wednesday, 25 June 2008

CLOSED COUNCIL

