

File No. 100/09  
Our Ref: EAJ

23 January 2009

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, 28 January 2009** 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 – REV RICHARD MILLS (*MITTAGONG ANGLICAN CHURCH*)
3. PUBLIC FORUM
4. APOLOGIES
5. ADOPTION OF MINUTES OF ORDINARY MEETING HELD ON 17 DECEMBER 2008
6. BUSINESS ARISING FROM THE MINUTES
7. DECLARATIONS OF INTEREST
8. MAYORAL MINUTE (*if any*)
9. OPEN COUNCIL CHAIRED BY CLR KEN HALSTEAD
  - Visitor Matters
  - Environment and Planning
  - Corporate Services
  - Technical Services
10. COUNCIL MATTERS
  - General Manager
  - Corporate Services
11. NOTICES OF MOTION
12. DELEGATES REPORTS
13. PETITIONS
14. QUESTIONS FROM THE PUBLIC
15. CORRESPONDENCE FOR ATTENTION
16. QUESTIONS WITH NOTICE
17. COMMITTEE REPORTS (*Tabled*)
18. COMMITTEE REPORTS (*Attached*)
19. GENERAL BUSINESS
20. CLOSED COUNCIL

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# Our Values

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

**PRIDE** in our lifestyle and environment;

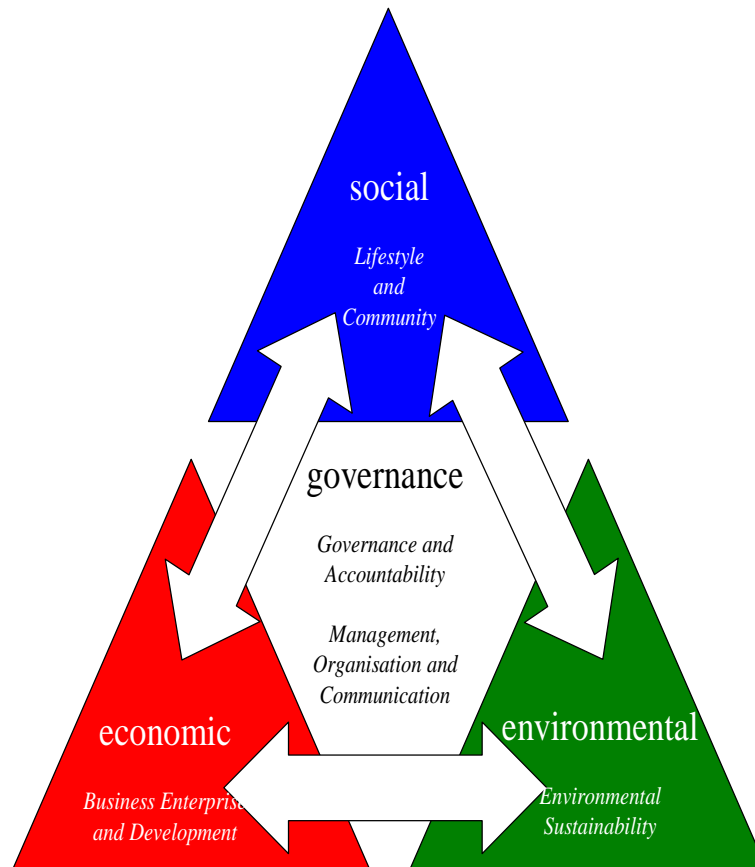
**EXCELLENCE** in the provision of services;

**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.

## **COUNCIL'S MANAGEMENT PLAN PROGRAMS**



### **QBL ⇔ Sustainability**

**Economic** – The role of business with special attention to tourism in our community.

**Governance** – The way we go about making decisions and the supporting processes that enable action within our community

**Environmental** – Managing our natural and urban surrounds.

**Social** – All things that affect quality of life and our interactions in the southern highlands.

Each of these have a program associated with it. A program is a grouping of functional projects or services that Council provides to help feed each of these quadrants in the QBL. We have formed program teams in order to foster communication across branches. This then develops a holistic view of what the Council's role is within our community.



**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

**DECLARATIONS OF INTEREST**

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**DECLARATION OF INTEREST**

*101/3*

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

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

### VISITOR ITEMS

#### ENVIRONMENT & PLANNING DIVISION

#### Lifestyle and Community

#### v-EP1 Development Contributions Plans

REF: MSP

5701

The purpose of this report is to provide Council with an update and further information in respect to the State Governments changes to the Section 94 Developer Contributions provisions within the Environmental Planning and Assessment Act and Regulations. The report will be presented by Council's Section 94 Planner.

### REPORT

#### BACKGROUND

A version of this report was previously submitted to Council on 10 December 2008. However in considering the report Council made the following resolution:

*'THAT the matter be deferred until the first Ordinary meeting in February 2009 (Wednesday, 12 February 2009) having regard to budgetary considerations.'*

Budgetary considerations have now been addressed in the report. Further late changes to developer contributions regulations announced on 23<sup>rd</sup> December 2008 by the State Government have also been included for discussion in this amended report.

This report discusses in detail the major proposed changes to the Environmental Planning and Assessment Act 1979 (EPA Act); proposed changes to the Environmental Planning and Assessment Regulation 2000 (EPA Reg); and the impacts these changes will have on Council's Contributions Plans.

At its meeting of the 9 July 2008 Council resolved as follows:

4. *THAT Council commences a comprehensive review of all current Section 94 Plans to ensure compliance with the new legislation within the time frame of 30 June 2009.*
5. *THAT a report on Section 94 Plans for the relocation of the animal shelter, the Moss Vale Services Centre and a future Family Services Centre in Mittagong be prepared.'*

On 2 April 2008 the Department of Planning released the Exposure Draft of the Environmental Planning and Assessment Bill 2008. The draft Bill proposed to make significant changes to the manner in which development contributions can be administered, under what is currently known as Section 94, of the Environmental Planning and Assessment Act 1979. The Development Contributions Section of the Act (Section 94 etc), will be

removed and replaced with what will be known as Part 5B of the EP&A Act, which will contain all provisions in relation to development contributions.

On 25 June 2008 the Bill was assented by Parliament. However it is now at the discretion of the Minister as to the timing of the introduction of the amendments to the Act, i.e. when they will be made legislation. The assented Bill is now known as the Environmental Planning and Assessment Act 2008 (EPA Act 2008). The Department of Planning has recently announced in a Circular that the new legislation, regarding Development Contributions (Part 5B) will be introduced in the 1<sup>st</sup> quarter of 2009.

The most significant change is that Council's Contributions Plans and negotiated Voluntary Planning Agreements (VPAs) must only raise or recoup funds for 'key community infrastructure' defined in the amendments to the Regulation under the EPA Act 2008 as follows:

**"31A Key community infrastructure and additional community infrastructure**

- i) *The following community infrastructure is prescribed as key community infrastructure for the purposes of sections 116I and 116V of the Act:*
  - a) *local roads*
  - b) *local bus facilities*
  - c) *local parks*
  - d) *local sporting, recreational and cultural facilities and local social facilities (being community and child care centres and volunteer rescue and volunteer emergency services facilities),*
  - e) *local car parking facilities*
  - f) *drainage and stormwater management works,*
  - g) *land for any community infrastructure (except land for riparian corridors),*
  - h) *district infrastructure of the kind referred to in paragraphs (a)-(e) but only if there is a direct connection with the development to which a contribution relates.*
- ii) *Public infrastructure comprising land for riparian corridors cannot be approved under Section 116I or 116V of the Act as additional public infrastructure.*
- iii) *In this clause:*  
**facilities** *means buildings and works."*

Should Council wish to raise or recoup funds for infrastructure works that cannot meet the definition above either via a Contributions Plan or VPA, Council may apply to the Minister for approval of an 'additional community infrastructure' contributions plan or VPA. In application to the Minister, Council must comply with the following Section in the amended Regulations under the EPA Act 2008:

**"31B Material to be provided by council seeking approval for additional community infrastructure contributions**

*A council requesting the Minister's approval under section 116I or 116V of the Act to the making of a contributions plan or entering into of a planning agreement providing for development contributions for additional community infrastructure or the provision of public infrastructure must provide to the Minister:*

- a) *a business plan that establishes how the additional community infrastructure concerned can be fully funded by the Council and can be provided and fully operational within the period to be specified in the contributions plan or planning agreement, and*
- b) *a report (provided by a suitably qualified person who is independent of the council) that assesses the proposed development contributions against the key considerations for development contributions for the purposes of Part 5B of the Act."*

These new provisions set the foundations from which each Contributions Plan or VPA can be made. Council's current contributions plans will need to undergo significant review to ensure compliance with these new Regulations, as the Savings and Transitional arrangements under the EPA Act 2008 state that:

**"130 Existing contributions plans**

- i) *A contributions plan in force under the former contributions provisions immediately before the commencement of this clause (an **existing contributions plan**) is repealed on 31 March 2010 unless the contributions plan is remade by the Minister under this clause before that date."*

Therefore all of Council's current Section 94 Contributions Plans will be automatically repealed by the new Act on 31 March 2010, unless they are remade by the Minister or Council before that date (*Note: The Draft Exposure Bill stated 30 June 2009 as the repeal date, however the assented Bill amended this date to 31 March 2010 and was only published shortly before Council's meeting of 9<sup>th</sup> July 2008*). As such Council will need to undertake a comprehensive review of all current contributions plans and remake them in accordance with the provisions of the EPA Act 2008 and ensure they are adopted prior to 31 March 2010. This will ensure that Council will be able to continue collecting and recouping contributions for key community infrastructure as defined by the amended Regulations.

Current Contributions Plans that will no longer be applicable under the new legislation

The following current contributions plans that will not comply with the definition of *key community infrastructure* and will be automatically repealed by the Act on 31 March 2010 are:

- East Bowral Contributions Plan (Family Day Care component);
- Resource Recovery Centre and Animal Shelter Contributions Plan; and
- Administration Contributions Plan

Should Council wish for these plans to continue beyond 31 March 2010, Council will either need to remake the plans as *Additional Infrastructure Contributions Plans*, which would require the Minister of Planning's approval, or request that the Minister remake the plans under **Section 130 Existing contributions plans** of the EPA Act 2008 once it becomes operational. Administration costs associated with maintaining contributions plans will need to be taken proportionally from each of the newly adopted plans.

A separate report discussing the merits of either applying for an additional contributions plan for these facilities, or letting the current plans expire will be brought before Council in the near future. This report will investigate alternative methods for funding the items contained in these plans and what details and costs Council will need to consider if it wishes to pursue 'additional contributions plan' for these items.

Current Contributions Plans that will require review to ensure compliance under the EPA Act 2008

The following current contributions plans will require review and amendment to comply with the new legislation once it is introduced:

- i). Roads and Traffic Facilities Contributions Plan
- ii). Open Space and Recreation Contributions Plan
- iii). East Bowral Contributions Plan
- iv). Stormwater Drainage Contributions Plan
- v). Bundanoon Contributions Plan
- vi). Beaconsfield Road Contributions Plan
- vii). Central Library Contributions Plan

The above plans will either have to be remade by Council or be remade by the Minister of Planning. Otherwise they will be repealed on 31 March 2010.

There are two types of contributions plans that Council will be able to make concurrently operational under the EPA Act 2008. They are an Indirect Contributions Plan and Direct Contributions Plans. However, for Drainage and Stormwater Facilities Council can make a Developer Servicing Plan under Section 64 of the Local Government Act.

**INDIRECT COMMUNITY INFRASTRUCTURE CONTRIBUTIONS PLAN**

It is recommended that Council should introduce an Indirect Community Infrastructure Contributions Plan which would apply to Commercial and Industrial development throughout the Wingecarribee Shire Council LGA, except for the Enterprise Zone.

Indirect Contributions literally replace Section 94A Plans, which WSC has never adopted and levy a simple fixed rate on any development that occurs within the plan area. An Indirect Plan is described as follows:

*"indirect contributions, being the payment of a monetary contribution that is a percentage of the proposed cost of carrying out the development."*

An Indirect Contributions Plan will allow Council to levy a contribution on proposed developments where 'direct contributions plans' do not apply. The Act states that indirect and direct contributions cannot be levied on the same development consent. The EPA Act 2008 makes no changes to the Regulations in regards to the percentages chargeable under indirect contributions, which are assumed to remain as follows:

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**Table 1 - Indirect Contributions Levy Percentages**

<b>Development Cost</b>	<b>Levy Amount</b>
Where the proposed cost of carrying out the development is up to and including \$100,000	Nil
Where the proposed cost of carrying out the development is more than \$100,000 and up to and including \$200,000	0.5% of the cost of the development
Where the proposed cost of carrying out the development is more than \$200,000	1% of the cost of the development

It is proposed that an Indirect Contributions Plan could raise funds for street beautification, traffic management and improvement works, including storm-water drainage within the established CBDs and Industrial areas of the Wingecarribee Shire. Therefore commercial/retail/industrial developments that are charged the levy will benefit directly from the levy, as the monies raised from these localities must be reinvested in improvement works for those localities.

Such a Plan would replace the need for commercial/retail/industrial developments to be charged a traditional type of contribution for roads, storm-water and administration. Since the introduction of the Proclaim Revenue Accounting System, Council has been able to record significant data including the value of proposed developments and the contributions either received and/or anticipated for proposed developments. The following data makes an excellent case for why Council could have an Indirect Contributions Plan for the purposes discussed:

- a) Combined Total Value of commercial/retail/industrial developments that have been approved since 2005 = \$116,356,528
- b) Total Value of Paid and Anticipated Section 94 Contributions for roads/drainage/administration plans from approved commercial/retail/industrial developments since 2005 = \$764,874
- c) Total Potential Income that could have been received from a Section 94A Plan if it had been applied to the same Development Applications mentioned in 'a.' and 'b.' above = \$1,150,485

Other advantages of such a plan is that they are easy to administer, they do not involve complex calculations, they do not require costly studies to determine nexus and apportionments; the condition of consent applying the levy is not appealable to the Land and Environment Court; and they do not apply to small applications under the value of \$100,000. The later is important as Council is no longer seen to be *'hitting the little guy'* with perceived unfair Contributions charges.

### **DIRECT COMMUNITY INFRASTRUCTURE CONTRIBUTIONS PLANS**

Direct Community Infrastructure Contributions Plans replace Section 94 Plans as we currently know them. It is recommended that Council's Development Contributions Planner initiate the review process of all of Council's current Section 94 Plans such that they can be remade into Direct Community Infrastructure Contributions Plans, except for Drainage and Stormwater Facilities, which should be written as a Developer Serving Plan under Section 64 of the Local Government Act.

On face value Council's current contributions plans could be consolidated into the following Direct Community Infrastructure Contributions Plans and Development Servicing Plans:

- Local Roads Direct Community Infrastructure Contributions Plan;
- Local Parks, Sporting and Recreational Facilities Direct Community Infrastructure Contributions Plan;
- Cultural, Social Facilities & Volunteer Emergency Services Direct Community Infrastructure Contributions Plan;
- Local Car Parking Facilities Direct Community Infrastructure Contributions Plan; and
- Drainage and Stormwater Developer Servicing Plan

The above potential plans would be able to levy and recoup funds for the following types of facilities, which would be required by Council as a result of predicted population growth of approximately an additional 16,000 persons from 2006 to 2031 (Dept. of Planning):

- (a) Local Roads Direct Community Infrastructure Contributions Plan
- i) Local and district roads works improvement projects
  - ii) Local and district roads traffic facilities (intersections, traffic calming, culverts, bridges, etc)
  - iii) Local and district bus facilities
  - iv) Local and district on-street cycleway facilities
  - v) Land required for roads facilities
  - vi) Local and district roads infrastructure for the Enterprise corridor
- (b) Local Parks, Sporting and Recreational Facilities Direct Community Infrastructure Contributions Plan
- i) Local and district parks
  - ii) Local and district sporting fields and facilities
  - iii) Local and district recreation facilities
  - iv) Local and district off-street cycleways
  - v) Land required for the above facilities
- (c) Cultural, Social Facilities & Volunteer Emergency Services Direct Community Infrastructure Contributions Plan
- i) Local and district library facilities
  - ii) Local and district community centres (i.e. Moss Vale Community Services Facility)
  - iii) Local and district child care facilities (does not include Family Day Care Services)
  - iv) Local and district State Emergency Services facilities
  - v) Local and district Rural Fire Service facilities
- (d) Local Car Parking Facilities Direct Community Infrastructure Contributions Plan
- i) Local Moss Vale Car Parking Facilities
  - ii) Local Bowral Car Parking Facilities
  - iii) Local Mittagong Car Parking Facilities
-

- (e) Drainage and Stormwater Developer Servicing Plan
- i) Drainage and stormwater infrastructure for Moss Vale
  - ii) Drainage and stormwater infrastructure for Bowral
  - iii) Drainage and stormwater infrastructure for Mittagong
  - iv) Drainage and stormwater infrastructure for Enterprise Corridor
  - v) Drainage and stormwater infrastructure for other localities within the shire subject to residential development.

The creation of the above mentioned plans will involve a significant review and implementation process. The resources required by Council to review and remake the plans are discussed in the Budget section of this report. The following is a list of studies, policies, reports and documents that will be used as background information and reference material to support the proposed contribution plans:

- *WSC Open Space, Recreation, Cultural and Community Facilities Needs – Study Strategy and Action Plan*, by Parsons Brinckerhoff (2004).
- *Draft Car Parking Strategy*, WSC Staff (2007).
- *Wingecarribee Retail Analysis – Final Report*, SGS Economics and Planning (2006).
- *Sydney Canberra Corridor Regional Strategy 2006-31*, NSW Department of Planning (2008).
- *Traffic Study Impact of Renwick Residential Development on East Mittagong and Surrounds*, Forbes Rigby Pty Ltd (2003).
- *Draft WSC Bicycle Strategy for Mittagong, Bowral and Moss Vale*, WSC Staff (2008).
- *WSC 2008-2011 Management Plan*, WSC (2008).
- *WSC Community Profile 2006*, WSC Social Planner (2008)
- *Development Contributions Practice Notes (2005)*, Department of Planning, Note new version expected to be released when EPA Act 2008 replaces current legislation.
- *Moss Vale Enterprise Corridor Essential Infrastructure Plan*, Connell Wagner (2007).
- *Wingecarribee Environmental Studies Colo Vale ‘Wensleydale’ - Traffic Impact Assessment*, Maunsell/AECOM (2006).
- *Wingecarribee Environmental Studies Moss Vale ‘Chelsea Gardens’ – Traffic Impact Assessment*, Maunsell/AECOM (2006).

A Draft Community Infrastructure Contributions Plans – Implementation Project Plan has been reviewed by the General Manager and Executive. Should Council be supportive of the resourcing required to support this project the document will be signed off by Executive and processes undertaken as described by the Project Plan. Budgetary Considerations have been addressed in the Project Plan and have been reproduced in this report. The Project Plan is attached. The advantage of having this Project Plan is that Council, Executive and the Project Manager will be able to report on the progress of the Project against known tasks and milestones.

## **THE KEY CONSIDERATIONS FOR DEVELOPMENT CONTRIBUTIONS**

The new Part 5B provisions of the EPA Act 2008 introduce Section 116D – Key considerations for development contributions. When making either a Direct or Indirect Contributions Plan or a Voluntary Planning Agreement Council must address these key considerations, which are reproduced as follows:

- (a) *Can the public infrastructure that is proposed to be funded by a development contribution be provided within a reasonable time?*
- (b) *What will be the impact of the proposed development contribution on the affordability of the proposed development?*
- (c) *Is the proposed development contribution based on a reasonable apportionment between existing demand and new demand for public infrastructure to be created by the proposed development to which the contribution relates?*
- (d) *Is the proposed development contribution based on a reasonable estimate of the cost of proposed public infrastructure?*
- (e) *Are the estimates of demand for each item of public infrastructure to which the proposed development contribution relates reasonable?*

Section 116D is a fundamental change in way the EPA Act administers development contributions plans. These 'considerations' do not currently exist under the Act. In making its Contributions Plans Council must address these considerations carefully, as they open a new avenue for a Contributions Plan to be challenged in the Land and Environment Court. Under the current Act a contributions plan's validity can only be challenged in its first 3-months of operation, after which time only challenges on the reasonableness of a Contributions Condition of Consent were available. The other possible challenge would be under Section 123 of the Act where a breach of the Act must be proven in relation to a Contributions Plan or its' imposition of conditions etc on a consent.

It is possible that a successful challenge against these considerations could result in the Court ruling that the Contributions Plan is invalid, leaving Council without such a Plan. As this is a new provision in the Act, no such challenge has been tested in court. Thus it is recommended that Council's Draft Contributions Plans be referred to our legal advisors prior to their exhibition to ensure compliance with these new considerations and other sections of Part 5B of the Act.

#### MANAGEMENT PLAN ISSUES OR IMPLICATIONS

The proposed contributions plans must become aligned with Council's Management Plan and Infrastructure Recovery Program. Contributions Plans should not be documents that raise funds for one off specific items, but rather documents that are integrated with Council's long-term infrastructure works programs. Thus the proposed Plans should become a significant form of funding for infrastructure programs that will support the LGA's current and future residents.

#### POLICY IMPLICATIONS

As part of the review process it is proposed to introduce a Contributions Assessment Policy, which will contain:

- Criteria for the calculation of contributions for proposed development;
  - Items that are Exempt from Contributions;
  - Procedures for the Assessment of Development Contributions;
  - Works in Kind, Land Dedication and Material Public Benefit Policy, Procedures and Application Information;
  - Procedures for Indexing Contributions; and
  - Standard Definitions.
-

The aim of this Policy is to provide transparency for how Council goes about calculating development contributions for proposed development. Further the Policy will also form a consistent basis for which Exemptions, Procedures, Calculations and Dedications that all contributions plans will adopt.

<b>BUDGET IMPLICATIONS</b>
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For the 2007/08 Financial Year Council's Contributions Accounts presented as follows:

- Opening balance of \$17,962,243
- Contributions Received (income) \$2,631,897
- Expended During Year (expense) \$3,142,500
- Interest earned \$1,460,639

From the figures above it can be seen that Section 94 Contributions form a significant part of Council's Capital Works budget. Most of Council's current plans are at the end of their life spans and need significant review with many of the items in their works programs having been completed. However, \$6,200,000 remains to be spent on outstanding Drainage, Roads and Traffic Facilities. The outstanding items and their cost estimates will require complete revision. Should the revision find that the items are still relevant they will be rolled over into the new plans with updated cost estimates and timing for their provision.

Should Council decide not to review and remake its contributions plans, in accordance with the EPA Act 2008, after the 31 March 2010 Council will forego a significant source of revenue for its capital works budget, as all of the current plans will automatically be repealed by the Act.

It is likely that the review of the current plans, studies documentation and reports from consultants, will reveal significant infrastructure works will need to be carried out to cater for the additional 16,000 residents projected to be residing in the Shire by 2031. The Connell Wagner report identified approximately \$100 million dollars worth of infrastructure will be required for the Moss Vale Enterprise zone alone, of which most should be raised through development contributions, from Industrial Development primarily.

Under the new Plans, Council will also be able to recoup a reasonable apportionment of the costs of recent expenditure on infrastructure, such as the new Moss Vale Community Care Centre and the Taylor Ave, Medway Road and Old Hume Hwy intersection realignment and roundabout.

Therefore it is essential that Council undertakes the review and implementation of its contributions plans to ensure that it is capable of funding necessary capital infrastructure well into the future, whilst maintaining its' current level of service.

To carry out the review an assessment of Council's resources has been undertaken and a Project Plan created to implement the review. The following table is taken from the Project Plan and demonstrates the Resources required and how they are planned be funded:

**ORDINARY MEETING OF COUNCIL**

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**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

**Table 2 - Equipment, Property and Plant Resources**

<b>Resource</b>	<b>Proposed Use</b>	<b>Purchase Price/Cost of Use</b>	<b>Source of Funding</b>
Notebook PC	To be used by Project Leader for all Section 94 related work.	Approximately \$1,100.00 with swap over of current desktop. Approx \$2,500 without.	Development Contributions Administration Fund.
Overhead Projectors	Will be required in Group Meetings and Presentations	NIL – use existing Council Projectors	NIL
Meeting Rooms	Will be required for Group Meetings and Presentations	NIL - use existing Council Facilities	NIL
Council Vehicle	For use in visiting sites for projects to be included in works programs and travelling to Public Presentations if not held at Council HQ in Moss Vale.	Fuel costs – Vehicle provided as part of Contributions Planner's salary package	Part of Salary Package
Internet	To be used for notification of Public Meeting and Exhibition of Plans	NIL – existing Council Resource in operation for these purposes	NIL
MS Project	Software for managing projects	\$511.13	Paid for from Development Contributions Administration Fund
Google	Other possible web base information for displaying Council's facilities.	NIL – Google provides for free listings.	NIL
Southern Highlands News	Local Newspaper – For notifying the public that they can comment on the contributions plans during exhibition periods	No Additional Cost if placed in Council's Wednesday Public Notices information page.	NIL
Infrastructure – Contract Senior Design Engineer for 12-months	To replace current Senior Design Engineer position for 12-months whilst they work on the Development Contributions Plans works programs.	Approximately \$110,000	General Revenue (Can be recouped through Contributions Plans)

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Infrastructure – Quantity Surveyor	To be contracted form time to time to provide cost estimates for projects	Approximately \$40,000	General Revenue (Can be recouped through Contributions Plans)
Infrastructure – Engage Consultancy for Stormwater	Engagement of a Consultancy to review Stormwater studies, flood studies and produce a whole of shire catchment management strategy containing design and costing of projects	Approximately \$100,000	Stormwater Levy – available from 1 July 2009
Infrastructure – Recreation Plans of Management	Engage consultants to complete Plans of Management for Councils Open Space lands	Approximately \$100,000	Ongoing funding from current Open Space and Recreation Development Contributions Plan Account.
Consultants – Financial Reporting	Required to set up Finance One and Proclaim with the ability to produce a Contributions Register in accordance with the Environmental Planning and Assessment Act and Regulations	Approximately \$30,000	General Revenue – Noting this amount may not be necessary (Can be recouped through Contributions Plans)
Consultants – Review Open Space, Recreation, Community, Cultural Needs	Consultants required to update 2004 Open Space, recreation, Cultural and community needs Study and Strategy. Update necessary to ensure relevance of the document as is will be the background document supporting Contributions Plans for these facilities and services.	Approximately \$30,000	General Revenue (Can be recouped through Contributions Plans)

Essentially only a maximum of \$200,000 will be required from Council's General Revenue to ensure the project can be completed on time. This amount can be reduced by \$30,000 if modifications to Finance 1 and Proclaim do not require consultants. However, if this amount is not placed in reserve, should consultants be required to make modifications to these operating systems, the implementation and accounting methods for the New Contributions Plans could be jeopardised, resulting in errors and a substandard Contributions Register.

Funds for the Production of a Drainage and Stormwater DSP (\$100,000) will be taken from the Stormwater Levy, which will become available on 1 July 2009. A consultant will be required to produce the DSP as well as a whole of Shire catchment management strategy,

which will be the background document for the DSP. The DSP will outline all required works throughout the Shire and levy development where appropriate.

The \$100,000 required for the completion of plans-of-management for Council's Public Parks and Recreation Areas, is currently being taken from Section 94 funds allocated under the Open Space and Recreation Facilities Section 94 Plan adopted by Council in 2007. This arrangement will be ongoing and may be carried over into the new Direct Community Contributions Plan for Local Parks and Recreation Facilities, should continued funding be required. As the Plans of Management are completed they may reveal further embellishment works for Parks and Open Spaces that could be funded via Contributions Plans.

Thus \$170,000 will be required from General revenue to fund the Review of the Plans. This will cover a temporary (12-months) position of a Senior Design Engineer (\$100,000) who will replace existing Senior design Engineer's role, whilst they work on the Draft Contributions Plans; a Quantity Surveyor (\$40,000) for carrying out accurate cost estimates for projects; and Consultants (\$30,000) for the review of Council's Open Space, Recreation, Community, Cultural Needs Strategy.

It is noted that the development of the new Direct Contributions Plans will recoup the costs of their production and return those funds to Council's General Revenue Reserve over time. Once Council's current Section 94 Contributions Plans are repealed by the new Direct Community Contributions Plans, the monies raised by the repealed plans will become available for Council to put back into the General Revenue Reserve, thus immediately paying back the new Plan's production costs. The remaining funds from the repealed contributions plans, minus the new Plan's production costs, should then be put towards the projects listed in the works programs of the new Direct Community Contributions Plans. Left over funds raised from the repealed plans will be accounted for in the Contributions Rates in the new Plans, thus reducing the overall development contributions chargeable per lot, reducing the cost of development and helping with the affordability of housing.

### **Threshold Restrictions to be placed on Contributions Plans**

On 23<sup>rd</sup> December 2008 the Department of Planning released a circular (PS 08-017) announcing a \$20,000 cap for Section 94 Contributions on residential allotments. The \$20,000 cap will be issued via a Section 94E Direction from the Minister of Planning, which will limit Council's to charging no more than \$20,000 in Section 94 Contributions on Residential allotments. This direction will apply to all current Section 94 Plans. Should a Council's Section 94 Plan/s levies exceed the \$20,000 cap, they will need to make a submission to the Minister of Planning seeking approval to exceed the cap. The direction will also apply to the Direct Community Infrastructure Contributions Plans under the new Part 5B provisions.

Figure 1 shows a sample of the approximate amount of Section 94 and Section 64 Contributions applicable to residential lots throughout the Wingecarribee Shire. The Section 64 Contributions for Water and Sewer currently make up \$11,286.00 of the total charge per lot, increasing to \$12,500 on 1 July 2009. The Section 64 charges are not affected by the \$20,000 threshold. Therefore Council's current Section 94 Charges only total approximately \$9,000 per Residential lot, significantly below the \$20,000 cap.

**Figure 1 - Contributions Per Residential Lot**

Contribution Plans	Unit	Bowral	Burradoo	East Bowral	Mittagong	Welby	Moss Vale
OPEN SPACE - DISTRICT	\$ per ET	\$ 1,282	\$ 1,282	\$ 1,282	\$ 1,282	\$ 1,282	\$ 1,282
OPEN SPACE - LOCAL	\$ per ET	\$ 3,306	\$ 3,306	\$ 4,612	\$ 4,468	\$ 4,468	\$ 3,978
CENTRAL LIBRARY	\$ per ET	\$ 345	\$ 345	\$ 345	\$ 345	\$ 345	\$ 345
FAMILY DAY CARE CENTRE	\$ per ET	\$ 19	\$ 19	\$ 19	\$ 19	\$ 19	\$ 19
COMMUNITY CENTRES	\$ per ET			\$ 352			
YOUTH CENTRE	\$ per ET	\$ 48		\$ 93	\$ 19	\$ 19	
<b>ROADS &amp; TRAFFIC MANAGEMENT FACILITIES</b>							
Sub Plan 1	\$ per ET	\$ 934	\$ 934		\$ 934	\$ 934	\$ 934
Sub Plan 2 Residential - Town	\$ per ET	\$ 1,148	\$ 1,148	\$ 3,356	\$ 560	\$ 560	\$ 956
STORMWATER DRAINAGE	\$ per ET	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500
WATER SUPPLY	\$ per ET	\$ 4,873	\$ 4,873	\$ 4,873	\$ 4,873	\$ 4,873	\$ 4,873
WASTEWATER - SEWERAGE	\$ per ET	\$ 6,412	\$ 6,412	\$ 6,412	\$ 6,412	\$ 6,412	\$ 6,412
CONTRIBUTIONS PLAN ADMINISTRATION	\$ per ET	\$ 405	\$ 405	\$ 405	\$ 405	\$ 405	\$ 405
RESOURCE RECOVERY CENTRE	\$ per ET	\$ 83	\$ 83	\$ 83	\$ 83	\$ 83	\$ 83
ANIMAL SHELTER	\$ per ET	\$ 14	\$ 14	\$ 14	\$ 14	\$ 14	\$ 14
	<b>TOTALS</b>	<b>\$ 20,371</b>	<b>\$ 20,323</b>	<b>\$ 23,347</b>	<b>\$ 20,915</b>	<b>\$ 20,915</b>	<b>\$ 20,802</b>

Thus, as part of the review process Council has significant margin to increase it's Section 94 charges per residential lot closer to the \$20,000 threshold. That would be appropriate if the revised charges are justifiably reasonable and do not have a negative impact upon affordability.

**ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

(i) Environmental Factors

The comprehensive review of Council's Development Contributions Plans will have minimal impacts upon the Environment. However projects either fully or partially funded from the plans will have the potential to have significant impacts upon the environment. It will be Council's responsibility to ensure these projects will be sustainable; have minimal impacts on the environment; provide improved social outcomes for the community; and may even improve/restore environmentally sensitive habitats.

(ii) Social Factors

The review of the contributions plans will result in updated infrastructure works programs that will contain a number of projects that will benefit the Wingecarribee Shire community. These projects will enhance the social fabric of the community through the provision of safer roads, bicycle networks, community buildings, improved stormwater and drainage infrastructure, improved sport and recreation areas and improved volunteer emergency services infrastructure.

(iii) Economic Factors

Economic factors are expanded upon under *Budget Implications* and *Indirect Community Infrastructure Contributions Plan*.

**ATTACHMENTS**

There is one attachment to this report (Draft Community Infrastructure Contributions Plans Implementation Project Plan) which has been circulated separately.

**RECOMMENDATION**

1. THAT Council notes that a review of all Council's Section 94 Contributions Plans is being undertaken and that they will be remade in accordance with the Environmental Planning and Assessment Act 2008.
2. THAT a Section 94A (Indirect) Contributions Plan be drafted for the purposes of raising funds for works within Commercial and Industrial areas of the Wingecarribee LGA and that the draft be reported to Council.
3. THAT a Draft Development Contributions Assessment Policy be drafted and reported to Council.
4. THAT the following Section 94 (Direct) Contributions Plans be drafted and reported to Council as follows:
  - a) Local Roads Direct Community Infrastructure Contributions Plan;
  - b) Local Parks, Sporting and Recreational Facilities Direct Community Infrastructure Contributions Plan;
  - c) Cultural, Social Facilities & Volunteer Emergency Services Direct Community Infrastructure Contributions Plan;
  - d) Local Car Parking Facilities Direct Community Infrastructure Contributions Plan; and
5. THAT the following Section 64 (Local Government Act) Development Servicing Plans be drafted and reported to Council as follows:
  - a) Drainage and Stormwater Development Servicing Plan
6. THAT a report be brought before Council discussing other methods of funding for the Animal Shelter, Resource Recovery Centre and Family Day Care Section 94 Contributions Plan including the merits of applying for '*additional contributions plans*'.
7. THAT all Draft Contributions Plans be sent to Council's legal representatives to ensure compliance with Part 5B of Act prior to being reported to Council and placed on public exhibition.

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***(Voting on the motion)***



## ORDINARY MEETING OF COUNCIL

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## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

### Environmental Sustainability

#### v-EP2 Proposed 10 cluster houses, Wembley Road, Moss Vale

REF: DCM

LUA08/0144

Reporting on the application for ten (10) Cluster Houses at lot 7 DP 800183 Wembley Road, Moss Vale.

The applicant for this development is a member of staff. Applicant and objectors have been invited to address Council.

#### REPORT

### 1. DESCRIPTION OF PROPOSED DEVELOPMENT

Council is in receipt of a development application for the construction of ten (10) cluster houses. The subject site has a total area of 6014 square metres and currently contains a single storey dwelling and minimal existing exotic vegetation (**Attachment 1**). The application proposes ten (10) three or four bedroom, single story dwellings, each with variations in design and floor plans (**Attachment 2**).

### 2. STATUTORY CONSIDERATIONS

The property is zoned 2(a) Residential in accordance with the zoning schedule of the Wingecarribee Local Environmental Plan 1989 and the proposed development is permissible with Council consent.

The property is proposed to be zoned R2 Low Density Residential in accordance with the zoning schedule of the Draft Wingecarribee Local Environmental Plan 2007. The proposal would not be permissible under the terms of the draft LEP.

The application is subject to the following Council controls:

-Clause 31A of WLEP 1989 – Development in the vicinity of a heritage item. (See Section 6 of this report for assessment)

-Development Control Plan – Residential Development (See Section 5 of this report for assessment)

-Development Control Plan No. 41 – Development & Subdivision Engineering Standards and Planning Guidelines (See Section 5 of this report for comments).

### 3. REFERRALS TO STATE GOVERNMENT AUTHORITIES

- i) In accordance with Regional Environmental Plan – Drinking Water Catchments the Development Application was referred to the Sydney Catchment Authority for concurrence. The Authority has raised no issues with the application on the basis that

several erosion and water quality control conditions be imposed which the department provided.

- ii) The subject property is located directly to the west of the Throsby Park Historic site. The development application was referred to the Department of Environment and Climate Change for comment. The Department has not raised any objections or provided any conditions of consent. The Department however has recommended that the historic views from the main heritage buildings within Throsby Park be taken into consideration. See Section 6 of this report for discussion of potential heritage impact.

#### **4. PUBLIC CONSULTATION**

The development proposal was advertised in the local papers and the Sydney Morning Herald for a period of one month between 14 March 2008 and 2 April 2008. During this period 16 submissions were received from neighbouring residents. The submissions have raised concerns regarding the following:

Visual clutter

Traffic and Safety

Insufficient off street parking

Impact on existing vegetation

Statement of Environmental Effects addressing a repealed DCP.

#### **5. INTERNAL STAFF COMMENTS**

##### Engineering

- Kerb and Gutter and associated drainage is required to be constructed along both road frontages of the proposed development.

- The development has the potential for approximately forty (40) additional vehicle movements per day (based upon two vehicles per house hold with two trips per day). The additional traffic generation is not expected to create a negative impact on the locality. The kerb alignment (face of kerb) will be required to be constructed 4.5m from existing road centre line which will improve current conditions.

#### **6. ASSESSMENT OF DEVELOPMENT APPLICATION AGAINST RESIDENTIAL DCP**

Note: The original Statement of Environmental Effects (SEE) incorrectly addressed the repealed residential DCP (DCP18). An amended SEE was provided which addresses the current DCP. The assessment table below has assessed the application against the current Residential DCP only.

Performance Criteria	DCP Standard	Development Proposes	Complies
4.02 Amalgamation	I a) Proposal must have at least 25m of site frontage to a public street. b) Utilise corner site or other allotments with two street frontages.	The subject site is a corner allotment with both frontages being in excess of 70metres in length.	Yes
4.03 Site Planning	i) Maximise the number of dwellings that address a public street rather than internal driveways.  ii) Minimise the dominance of area set aside for the vehicular circulation and storage.  iii) Locate the bulk of development closer to public streets.  iv) Avoid long and unbroken building forms greater than 25 metres in length.  v) Limit the proportions of dwellings more than 50m from a public street.  vi) Locate dwellings, driveways and open space to accommodate the retention of existing natural and cultural features on the site.  vii) Orientate and configure dwellings to respond to opportunities for good solar access.	i) Six out of ten dwellings will have street frontage.  ii) An efficient internal driveway design is proposed.  iii) 60% have street frontage  iv) Development proposes no buildings forms greater than 20metres in length.  v) 60% of dwellings have street frontage  vi) Dwellings located to allow retention of existing perimeter landscaping. Driveway locations will require removal of several trees however adequate replacement landscaping is proposed.  vii) Spacing and orientation of all dwellings will ensure good solar access.	i) Yes  ii) Yes  iii) Yes  iv) Yes  v) Yes  vi) Yes  vii) Yes

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**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

	<p>viii) Use landscape plantings to reduce the apparent bulk new dwellings when viewed from the street or adjoining land.</p> <p>ix) Consider impacts of repeating proposed development on the neighbouring lots, or the entire block – is the resulting pattern of development and /or streetscape desirable?</p>	<p>viii) Extensive landscaping is proposed</p> <p>ix) See Section 6 of this report for discussion</p>	<p>viii) Yes</p> <p>ix) Yes</p>
4.04 Dwelling Mix	i) Developments that propose more than 8 dwellings should provide a mix of dwelling sizes.	i) 10 dwelling designs proposed with choice of 3 or 4 bedrooms.	i) Yes
4.05 Building Height	i) Maximum height must not exceed 6 metres above natural ground level to the underside of the eaves	i) Single storey only with maximum height of all dwellings approximately 2.86metres	i) Yes
4.06 Front Setbacks	<p>ii) Where development immediately adjacent to proposed development do not feature a consistent front setback:</p> <p>b) If the difference between front setbacks is greater than 2 metres the new dwellings will adopt an average of the existing setbacks.</p>	<p>ii) Existing setback of dwellings on church street is approximately 6.5metres. Development proposes 6metres.</p> <p>b) Existing average set back on Wembley Road is 45metres. Development Proposes 6 metres.</p>	<p>ii) Yes</p> <p>b) No (see section six for discussion)</p>
4.07 Side Setbacks	<p>i) Minimum side setbacks will be:</p> <p>a) 2.0 metres where development is up to 3 meters in height above actual ground level.</p>	<p>i) Development proposes:</p> <p>-1.5metre setback from south eastern boundary.</p> <p>-2metres from north eastern boundary</p>	<p>No (see section six for discussion)</p> <p>Yes</p>
4.08 Rear Setbacks	N/A	N/A	N/A

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4.09 Density and Floor Space Controls	Table 4.09.1 allows a maximum density of one dwelling per 550 square metres of net area.	Development proposes one dwelling per 600 square metres.	Yes
4.10 Dwelling Orientation	<p>i) Living area and 50% of private open space must receive minimum of 3 hours direct sunlight on 21 June.</p> <p>ii) Development must not reduce solar access at adjacent dwellings.</p>	<p>i) All dwellings have sufficient separation and will receive adequate sun light exposure.</p> <p>ii) Development will not reduce solar access to existing dwellings</p>	<p>i) Yes</p> <p>ii) Yes</p>
4.11 Private Open Space	i) All dwellings must have a consolidated principal private open space area with minimum dimensions of 70m <sup>2</sup> and 5m in width.	i) Development proposes areas of private open space of between 92 square metres and 214 square metres for all dwellings.	i) Yes
4.12 Preservation of Views and Privacy	i) Where a transparent window in a second storey is to be located less than 9m from an adjoining dwelling, the window must be designed / located to reduce direct overlooking into an adjoining dwelling.	i) Development proposes adequate separation between all proposed dwellings and existing residences.	i) Yes
4.13 Building Separation	<p>i) For all medium density development, the following minimum building separations apply as specified in Table 4.13 for all dwellings within a development.</p> <p>Living to living -15m          Living to habitable – 10m          Habitable to habitable -10m          Habitable to non habitable – 6m          Non Habitable to non habitable – on merit</p>	i) Development proposes adequate separation between all proposed dwellings and existing residences.	i) Yes

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4.14 Deep Soil Area	<p>i) 35% of the site area will be of deep soil. ii) All proposed deep soil areas must have minimum dimension of 2 metres by 2 metres.</p> <p>ii) For all residential development there will be one consolidated deep soil area with a minimum dimension of 5 metres by 5 metres.</p>	<p>i) Development proposes approximately 45% of site to be of deep soil area.</p> <p>ii) All dwellings will have deep soil areas well in excess of 5 by 5 metres.</p>	<p>i) Yes</p> <p>ii) Yes</p>
4.15 Cut and Fill	i) Cut and fill is not to exceed 750mm on lots > 4000 square metres	i) Required Cut and fill does not exceed 750mm	i) Yes
4.16 Car Parking, garaging and driveways	<p>i) (b) Dedicated resident parking rate at a rate of 2 spaces per 3 or more bedroom dwellings.</p> <p>i) (c) Dedicated visitor parking at a rate of 1 space per 3 dwellings (rounded up to the nearest whole number)</p> <p>ii) Width of driveway to be limited to 25% of frontage to public street</p> <p>iii) Garages to be located at least 1.2m behind the main building façade and should not exceed 40% of dwelling frontage.</p> <p><i>Design Guidelines</i></p> <p>i) Avoid unrelieved “gun barrel” driveways</p> <p>ii) Locate garages to be recessive rather than dominant on the streetscape.</p>	<p>i) (b) Number of bedrooms range between 3 and 4. All dwelling have double garages proposed.</p> <p>i) (c) 10 dwellings = 4 spaces. Development proposes 4 visitor spaces</p> <p>ii) Width of driveways maximum 19%</p> <p>iii) All garages located approximately 2 metres behind front façade and comprise of less than 40% of dwelling frontage.</p> <p>i) Design and number of driveways avoids undesirable appearance.</p> <p>ii) All garages will be recessive in terms of the appearance of the entire dwelling.</p>	<p>i) (b) Yes</p> <p>i) (c) Yes</p> <p>ii) Yes</p> <p>iii) Yes</p> <p>i) Yes</p> <p>ii) Yes</p>

4.17 Pedestrian access	<p>i) External common areas to be provided with appropriate lighting.</p> <p>ii) Buildings adjacent to public streets or spaces are to be designed to allow casual surveillance and should have at least one habitable room window facing that area.</p>	<p>i) No common area lighting proposed.</p> <p>ii) The design of all dwellings facing the public street will result in at least one habitable room window facing that area.</p>	<p>i) No however can be conditioned</p> <p>ii) Yes</p>
4.18 Adaptable Housing	<p>i) For all medium density developments, not less than one for every three dwellings, or part thereof, will be constructed to comply with not less than Class C level of Australian Standard 4299 – Adaptable Housing.</p>	<p>i) All proposed dwelling designs are capable of being adapted to comply with AS4299 when the need arises.</p>	<p>i) Yes</p>
4.19 Materials and Colours	<p>i) The use of zincalume is not permitted and galvanised iron may only be used with specific Council consent.</p>	<p>i) The use of zincalume and galvanised iron is not proposed.</p>	<p>i) Yes</p>
4.20 Fencing	<p>i) Fence heights shall be a maximum 1200mm forward of the front building line and 1800mm behind the front building.</p>	<p>i) Fence heights not given.</p>	<p>i) To be conditioned.</p>
4.21 Garbage Collection	<p>i) Garbage storage facilities shall be provided for either individual bins or larger communal bins.</p>	<p>i) No garbage storage facilities have been provided</p>	<p>i) No however can be conditioned.</p>

## **7. DISCUSSION OF MAJOR ISSUES ARISING**

### Impact on Local Amenity

The impact on the local amenity has largely been discussed by the Residential DCP assessment table within the above section. The development however fails to comply with the following areas of the Residential DCP:

-The development proposes inconsistent front set backs compared to that of the existing dwellings along Wembley Road. The average existing set back is approximately forty-five (45) metres while the development proposes only a six (6) metre set back. The proposed setback in numerical terms appears inappropriate. However; the subject locality should be viewed as an area undergoing transition from a very low density to a medium density as

WLEP 1989, DCP 16 and the Draft WLEP 2007, allow minimum lot sizes of 700 square metres. On such allotments, a more standard street setback would prevail.

The subject property with a total area of 6014 square metres has the potential to be subdivided into eight (8) lots in accordance with both the current and proposed planning controls. Council should therefore assess the proposed setbacks of the new development on merit. When taking into consideration the existing vegetation along the street front of Wembley Road (Attachment 1) and the generous separation between proposed and existing dwellings, a set back of six metres will have negligible impact on the existing street amenity.

-A single dwelling adjacent to the south eastern boundary does not comply with the 2 metre side set back as required by the Residential DCP. The application seeks a variation of 0.5 metres to the DCP. Strict compliance with the DCP is not considered necessary in this instance as no neighbouring residences will be affected by the location of the dwelling in terms of privacy and solar access, which are the reasons why the control exists.

-The issue of visual clutter was raised by several submissions. The proposed development if approved will result in a significant increase in the residential density of the area compared to that already existing. It must be acknowledged however that Council has resolved to allow smaller allotments of 700square meters under both the current and draft LEP. In addition Council's Residential DCP has strict density controls for medium density development which the proposal complies with. The proposed setbacks and the additional landscaping to be provided are considered to be adequate to minimize the appearance of "visual clutter". The majority of the existing vegetation on site is also to be retained.

-Concerns were raised over inadequate off street parking being provided. Council's Residential DCP has strict controls on the minimum number of off street car parking spaces. The controls are specifically in place to eliminate the need for over flow parking onto public streets. The proposed development meets the DCP's requirements (see section 6 of this report for details).

#### Impact on Item of Heritage

Throsby Park Heritage site is located immediately to the east of the subject site. **Attachment 3** shows the view from the development site to the heritage buildings. In accordance with Clause 31A of WLEP 1989, consideration has been given to the potential impact of the proposed development upon the heritage item. The potential impacts in this instance are considered to be upon the historic views from the heritage buildings.

The impact from the proposed development upon the Item of Heritage is considered to be negligible when taking into consideration the following points:

- The heritage buildings within Throsby Park are located approximately 500metres from the subject site.
  - All proposed dwellings are to be single storey and constructed of a high quality external finish.
  - Through a combination of the existing vegetation within the subject site and Throsby Park, and in addition the proposed landscaping, the proposed development will be predominantly screened from any views from all heritage buildings.
  - Throsby Park already looks over an urban residential landscape
-

Variation to Wingecarribee DCP 41

The proposed width of the internal driveway for access to units 6,7,8,9 and 10 does not meet the requirements of Council's DCP 41. Table D1.1 - *Minimum Acceptable Characters of Urban Roads and Design Guidelines Parameters*, requires a minimum width of 4.5m. The development proposes a minimum driveway width of only 3.5m. The proposed internal configuration of the driveway however will allow traffic to flow efficiently in one direction with all traffic entering the site on Church Street and exiting the site on Wembley Road. As the traffic movements through the site can function effectively in one direction only, a width of 3.5metres is considered adequate.

**8. CONCLUSION**

The proposed development of ten (10) Cluster houses predominantly satisfies the development controls and design guidelines of Council's Residential Development Control Plan with the exception of some minor departures that do not diminish the amenity of the existing or proposed dwellings. The result is a high quality medium density development. The variations to the DCP are considered minimal and are not expected to lead to any significant impact on the locality. The adjacent heritage item is located at a sufficient distance to avoid any direct impact from the development and the actual views from the heritage buildings will not be interrupted.

Although the draft WLEP 2007 would prohibit a medium density development in this locality, it does allow for subdivision down to 700 square metre allotments, which could result in 8 individual dwellings on the existing site. With only 10 dwellings proposed in this cluster development, the difference in density is not significant.

The application accordingly warrants approval.

**MANAGEMENT PLAN ISSUES OR IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

The proposal respects Council's policy in relation to cluster housing developments by complying with the provisions of the Residential DCP.

**BUDGET IMPLICATIONS**

Nil

**ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

- (i) Environmental Factors  
All environmental matters have been adequately addressed by the proposal
  - (ii) Social Factors  
The proposal will offer housing choice within Moss Vale.
-



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(iii) Economic Factors

New housing development within the Shire would be a positive economic benefit.

### ATTACHMENTS

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

1. Aerial /Location plan.
2. Proposed site plan and elevations
3. View from site to Throsby Park Heritage Buildings

### RECOMMENDATION

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THAT LUA08/0144 for 10 cluster houses at Lot 7 DP 800183 Wembley Road, Moss Vale, be approved subject to appropriate conditions of consent to the satisfaction of the Director Environment and Planning.

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***(Voting on the motion)***



## ORDINARY MEETING OF COUNCIL

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## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

### Environment and Sustainability

#### v-EP3 Outdoor eating area – ‘Pancakes on the Plaza’, 14 Wingecarribee St, Bowral

REF: DCM

LUA08/0967

Reporting on proposed outdoor eating area for Shop 5, Corbett Plaza – ‘Pancakes on the Plaza’, 14 Wingecarribee Street, Bowral. The proposal is to establish an outdoor eating area to seat 24 people, located within Corbett Plaza. The applicant has been invited to address Council.

#### REPORT

#### **BACKGROUND**

The subject site (Corbett Plaza) is owned by Council and the proposed use is permissible with Council’s consent. Council’s Development Control Plan No 50 – ‘Outdoor Eating and other Commercial Uses of Community Land’ is relevant.

Council has corresponded on three occasions (1 October 2008, 3 November 2008 and 21 November 2008) with the applicant. Firstly in order to receive information required in order for the application to be assessed. Secondly, to advise that *‘furniture used must be in keeping with the surrounding area and compatible with local town centre corporate colours (dark royal blue, cream, gold and maroon) and should be made of metal or wood construction’*.

The applicant’s response of 14 November 2008 requested an extension of time to be granted in order to *‘pursue this matter further with (the) Councillors.’*

Council’s third correspondence advised the applicant that the Council has an obligation to determine all applications within reasonable time limits. The Mayor requested that the matter be submitted for determination by Council in the New Year.

#### **ASSESSMENT**

The proposal does not comply with Council’s DCP 50 – Section 2.3 (see **Attachment 1**). The applicant requests a departure from Council’s DCP in order to utilise bright red plastic and aluminium chairs, which the applicant purchased prior to obtaining Council’s consent.

The applicant considers that the *‘modern looking bright chairs....give the Plaza extra charm and character’* (extract from SEE submitted 23 September 2008).

DCP 50 applies to all Council owned and maintained roadways, footpaths and Community Lands under the *Wingecarribee Local Environment Plan 1989*. It applies to all structures to be located on footpath areas or other similar public space in commercial areas under the control of Council in the town centres including footpath areas in the road reserve.



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It contains various to ensure some uniformity of style within, and to ensure a certain standard was maintained not only in Corbett Plaza but in all public places used for commercial activities.

It is reasonable to have such controls because they provide the basis for consistency in dealing with such applications and also avoid creating an environment of "anything goes".

However, greater consistency can be achieved ensuring that the DCP is more specific, particularly in respect of the desired colours to be used.

It currently requires colours *"in keeping with the surrounding area and compatible with local town centre corporate colours and (materials) should be made of metal or wood construction"*.

This is very subjective and it is considered appropriate that specific colours should be included.

It is therefore proposed to amend DCP 50 by inserting the following wording:

*".....corporate colours, namely **dark royal blue, cream, gold maroon or natural wood,** and materials should be made of metal or wood construction"*.

### **CONCLUSION**

The applicant is seeking a departure from Council's DCP 50 as the red plastic chairs have already been purchased and are already in use within the plaza.

It is considered that this reason alone does not constitute sufficient justification for a departure from Council's DCP 50.

Any support for the application should be based on an acceptance that the red plastic chairs are suitable for use in the plaza. Consideration on the basis that the chairs have already been purchased is not a relevant consideration under s79C of the EPA Act.

If support is forthcoming, then Council should consider the impact upon the existing DCP requirements that seek to limit the colour and material choice of chairs within the plaza and look at ways of avoiding this example being used as a precedent by others.

### MANAGEMENT PLAN ISSUES OR IMPLICATIONS

Nil

### POLICY IMPLICATIONS

Council's policy in relation to this matter is set out in the relevant DCP. Inconsistent application of the DCP undermines its strength and therefore diminishes its usefulness.

### BUDGET IMPLICATIONS

Nil

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**ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

- (i) Environmental Factors  
Nil
- (ii) Social Factors  
Nil
- (iii) Economic Factors  
Expense has already been incurred by the applicant in the purchase of the furniture in question.

**ATTACHMENTS**

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

- 1. Extract from Council's DCP No 50.
- 2. SEE submitted by applicant – LUA08/0967 including colour photos of chairs in question.

**RECOMMENDATION**

- 1. THAT the application be refused for the following reasons:
    - i) the proposed street furniture will adversely affect the amenity of the Corbett Plaza by clashing with established street furniture and approved furniture in adjoining businesses;
    - ii) the proposed chairs do not comply with design requirements for outdoor street furniture as stipulated within Council's Development Control Plan No 50 – *'Outdoor Eating Areas and Other Community Uses of Community Land.'*
  - 2. THAT DCP 50 be amended by the inclusion of specific colours, namely dark royal blue, cream, gold maroon or natural wood, to be used for outdoor furniture.
- 

***(Voting on the motion)***



**Scott Lee**  
**Director, Environment & Planning**

**22 January 2009**

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**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

**OPEN COUNCIL**

**ENVIRONMENT & PLANNING DIVISION**

**Governance and Accountability**

**o-EP1 Development Consents Determined by way of Approval under Delegated Authority**

REF: DCM 5302

Submitting list of development consents executed under delegated authority of the Director of Environment and Planning between 1/12/08 and 19/1/09.

**RECOMMENDATION**

THAT the information relating to Development Consent Nos 1-16 under Delegated Authority be received and noted.

**Development Applications (DAs) Determined – 1/12/2008 – 19/01/2009**

\* This list excludes all applications dealing with single residence dwellings and ancillary residential development, new dwellings or additions, garages and less than 2 lot subdivisions.

	Date Finalised	Appl/Proc ID	Property Address & Legal Description	Description
1	18/12/08	LUA08/1047	Lot A DP 377731 166 ARGYLE ST, MOSS VALE	Demolition of Existing Dwelling & Erect Strata Commercial Medical Suites & Chemist
2	1/12/08	LUA08/1141	Lot 4 DP 736655 CALGARY PARK BIRCHALLS LA, BERRIMA	5 Horse Shelters
3	16/12/08	LUA08/0424	Lot 1 DP 256442 & Lots 7-10 Sec 13 DP 758882 YARRANGA STREET ROBERTSON	POPE (Entertainment for members & guests at Bowling Club)
4	12/12/08	LUA06/0355	Lot 13 DP 662464 17 EVANS STREET MITTAGONG	Demolition of existing building and erection of 4 Residential Flats
5	11/12/08	LUA07/1243	Lot 1 DP 918168 537 MOSS VALE ROAD BURRADOO	Demolition of Existing Cottage & Construct 5 Self Care Units under Senior Living SEPP & Strata Subdivision
6	12/1/09	LUA05/0527	Lot 40 Sec 2 DP 2133 59 SOUTHEY STREET MITTAGONG	Subdivision 3 Lots

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**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

**Development Applications (DAs) Determined – 1/12/2008 – 19/01/2009**  
**(Continued)**

	<b>Date Finalised</b>	<b>App/Proc ID</b>	<b>Property Address &amp; Legal Description</b>	<b>Description</b>
7	12/12/08	LUA08/0898	Lot 1 DP 56241 'CLOVER HILL' THE ILLAWARRA HIGHWAY SUTTON FOREST	Alterations & Additions & Demolition & Replace Existing Dwelling
8	12/12/08	LUA08/0963	Lot 2 DP 14181 12 ILLAWARRA HWY, MOSS VALE (opposite the end of Elizabeth Street)	Demolition of Existing & Construction of New Consulting Rooms
9	13/1/09	LUA08/0563	Lot 1 DP 198185 ILLAWARRA HWY, MOSS VALE (cnr Elizabeth & Illawarra Hwy)	Remove Garage Alterations to Existing Consulting Rooms & Provision of Additional Car Parking
10	18/12/08	LUA08/1152	Lot 3 DP 734711 'BOONAL' TOURIST ROAD KANGALOOON	Erection of 2 x Storey Dwelling & Demolition of Existing Dwelling Upon Completion
11	16/1/09	LUA08/1186	Lot 1 DP 435373 & Lot 5A DP 16192 & Lot 1 DP 126196 CENTENNIAL ROAD BOWRAL	POPE A Day on the Green Outdoor Concert Event
12	6/1/09	LUA08/0863	Lot 1 DP 1009528 OXLEY HILL RD, BOWRAL	Alts & Adds to Existing Stable and Arena
13	1/12/08	LUA08/0829	Lot 19, 20, 35 DP 751293 and 11 more WOMBAYAN CAVES ROAD MITTAGONG	Staged Development Dwelling
14	12/12/08	LUA07/0946	Lot 100 DP 869890 Lot 1 DP 1074502 RENWICK - BONG BONG RD, MITTAGONG	79 x Lot Subdivision
15	6/1/09	LUA08/1038	Lot 17 DP 1102306 10 FOLDGARTH WAY BURRADOO	Dwelling & Attached Granny Flat
16	2/12/08	LUA08/0554	Lot 409 DP 1120046 57 SOUTHEY STREET MITTAGONG	2 x Storey Dwelling



**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

**Governance and Accountability**

<b>o-EP2 List Of Land Use Applications Received By Council</b>		
REF"	DCM	5302

Submitting list of development applications which have been received between 1/12/08 and 19/1/09, 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 1-22 received by Council be received and noted.

**Development Applications (DAs) Received – 1/12/2008 – 19/01/2009**

**\* This list excludes all applications dealing with single residence dwellings and ancillary residential development, new dwellings or additions, garages and less than 2 lot subdivisions.**

	Date	LUA No	Property Address & Legal Description	Description	Council	Delegation
1	23/12/08	LUA08/1280	Lots 10 & 11 DP 12552 7 ANZAC PARADE BUNDANOON (Norlex) – within 100m of heritage buildings	New Commercial/Retail & Light Industrial Warehouse Development with on-site Parking (adjacent Fire Station)	✓	✓
2	22/12/08	LUA08/1275	Lot 55 Sec E DP 1289 5 ARTHUR ST MITTAGONG	Variation - Cluster Housing (not dual occ) & Alteration & Addition to Existing Dwelling		✓
3	4/12/08	LUA08/1225	Lot 337 DP 751302 PARATAI DRIVE BELMORE FALLS RD ROBERTSON	2 storey detached Dwelling & Utility Shed & Demolition of Existing single storey Dwelling		✓
4	7/1/09	LUA09/0016	Part Lot 3 DP 1070888  BERRIMA ROAD MOSS VALE	Additional Weighbridge at RRC		✓
5	14/1/09	LUA09/0031	Lot 1 DP 778730 HARDIE DUX DOUGLAS ROAD MOSS VALE	Showroom attached to Admin building		✓

**ORDINARY MEETING OF COUNCIL**

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**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

**Development Applications (DAs) Received – 1/12/2008 – 19/01/2009  
(Continued)**

	Date	LUA No	Property Address & Legal Description	Description	Council	Delegation
6	17/12/08	LUA08/1260	Part Lot 4 Sec C DP 3170 - EXETER PARK EXETER (S'FOREST ROAD), EXETER	Demolition of existing Public Amenities Canteen & Change Rooms & new amenities with aerated wastewater system (incl disabled toilet)		✓
7	8/12/08	LUA08/1234	Lot 100 DP 1102159 205 OLD HUME HWY, MITTAGONG (Hland Homemakers Centre)	Use Fitout & Signage Associated with Jetts Gymnasium in Tenancy 14		✓
8	5/12/08	LUA08/1231	Lot 5 DP 4926 Lot 5 DP 111642 'CLIFFTOP' PENROSE RD, PENROSE	Demolish Existing Dwelling & Erection of new Guesthouse & Associated Access Roads Services Utility Shed water & Gas Tanks & Associated Clearing & Excavation.		✓
9	1/12/08	LUA08/1210	Lots 1 & 2 DP 312123 Lot 2 DP 312123 28 HODDLE STREET ROBERTSON	Convert Existing Shop & residence to Doctor's Surgery		✓
10	5/1/09	LUA09/0005	Lot 2 DP 813645 3 BERESFORD ST, BALACLAVA	3 Lot Strata Subdivision		✓
11	2/12/08	LUA08/1214	Part Lot 100 DP 1122117 1 CHURCH STREET BUNDANOON	Hairdressing Salon		✓
12	5/12/08	LUA08/1226	Part Lot 100 DP 1122117 1 CHURCH STREET BUNDANOON	Food shop fitout Bundanoon Pizza & Pasta		✓
13	5/1/09	LUA09/0002	Lots 6, 7 & 11 Sec 36 DP 758098 'Hillside' WILKINSON STREET BERRIMA	2 Lot Subdivision		✓
14	9/1/09	LUA09/0023	Lot 52 DP 832807 LOT 52 ARGYLE ST, MOSS VALE	Remove existing fire damaged building & replace with 4 brm residence & 1 bedrm Attached Dual Occ & detached shed		✓
15	10/12/08	LUA08/1239	Lots 1-3 DP 813792 LOTS 1/3 'Frensham' WAVERLEY PARADE MITTAGONG	Alterations & Additions to Archive Building		✓
16	12/12/08	LUA08/1246	Lot 49 DP 661298 Lot 1 DP 821797 KELLYWOOD WILSON DRIVE BALMORAL	Change of Use from Dwelling to transitional Group Respite home, office, studio & horse pavilion	✓	

**ORDINARY MEETING OF COUNCIL**

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**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

**Development Applications (DAs) Received – 1/12/2008 – 19/01/2009  
(Continued)**

	Date	LUA No	Property Address & Legal Description	Description	Council	Delegation
17	15/12/08	LUA08/1250	Lot 13 DP 85763 DARLINGTON DRIVE HILL TOP	3 x Community Title Lot Subdivision		✓
18	12/1/09	LUA09/0024	Lot 3 S/P 65939 3/210 OLD HUME HWY, MITTAGONG (opp Homemakers)	Boutique Car Sales – Vintage & Classic cars		✓
19	23/12/08	LUA08/1286	Lot 1 DP 1043370 66 OSBORNE ROAD BURRADOO	5 Lot Subdivision (adjacent to Pony Club reserve)		✓
20	22/12/08	LUA08/1277	Lot 4 DP 1073386 11 BARRENGARRY ST, ROBERTSON (opp 'Alnwick')	5 Bedroom 3 Bathroom Split Level Dwelling With A Double Garage		✓
21	19/12/08	LUA08/1268	Lot 52 DP 1076836 HUME HIGHWAY ALPINE	'The Studio' dwelling with Equestrian Tourist Facility – stables, tennis court, horse facilities.	✓	
22	12/12/08	LUA08/1244	158/751259 - Crown Reserve BUSH FIRE SHED, KAREELA RD, PENROSE	Fire Station		✓

**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

**Governance and Accountability**

<b>o-EP3 Land Use Applications Determined</b>	
REF: DCM	5302

Submitting list of Land Use applications determined by way of approval under delegated authority of the Director of Environment & Planning for the month of December 2008.

**RECOMMENDATION**

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

LAND USE APPLICATIONS								
(Includes DA's, Const. Cert., BA's Local Gov. Act, Sandwich Boards, St App)								
Month	Total Applications Received		Cumulative		Dwellings DA's Only		No of Flats/ Units / Dual Occ /ClusterHousing SEPP SL	
	2007	2008	2007	2008	2007	2008	2007	2008
January	105(*20)	89(*16)	105	89	12	10		2(4)
February	116(*11)	125(*24)	221	214	15	17		3(12)
March	115(*13)	96(*19)	336	310	25	21		
April	96(*8)	105(*18)	432	415	15	10	1(4)	2(4)
May	121(*19)	128(*15)	553	543	25	20	3(8)	4(204)
June	131(*18)	111(*15)	684	654	19	9	1(4)	2(64)
July	119(*18)	114(*25)	803	768	29	16		2(140)
August	129(*18)	113(*12)	932	881	19	26	3(7)	1(3)
September	122(*24)	111(*20)	1054	992	9	12		
October	154(*25)	123(*28)	1208	1115	12	16	1(3)	1(3)
November	142(*13)	92(*28)	1350	1207	27	8	1(5)	4(8)
December	113(*12)	78(*8)	1463	1285	19	15		1(2)

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

NOTE # Includes Seniors Living (SEPP 5)



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

### Environment and Sustainability

#### **o-EP4 Amalgamation of 34 Lots & Creation of 12 Lot Subdivision Inclusive of Road Realignment at Oldbury and Countess Streets, Berrima – ‘The Rectory’**

REF: DCM

LUA08/0598

Reporting on a proposal for the amalgamation of 34 existing lots to create a 12 lot subdivision inclusive of road realignment at Lots 1-14 Section 28 DP 758098 Countess Street and Lots 1-18 Section 27 DP 758098 Oldbury Street, Berrima. The proposed development does not comply with Clause 50 (2) of the WLEP89 in that 9 of the proposed 12 lots do not comply with the minimum standard of 1 hectare. Lot sizes for proposed lots 1 – 9 range from 2000m<sup>2</sup> to 4000m<sup>2</sup>. Accordingly the application is accompanied by a SEPP 1 Objection.

At its meeting on 10 December 2008, Council resolved:

*‘THAT LUA08/0598 for the amalgamation of 34 lots and creation of 12 lot subdivision inclusive of road re-alignment at Oldbury and Countess Streets, Berrima, be deferred and be included in the next site inspection by Council.’*

Five Councillors undertook a site visit on January 21 2009.

#### REPORT

### 1. DESCRIPTION OF PROPOSED DEVELOPMENT

#### THE DEVELOPMENT SITE

The 34 lots within Section 27 & 28 appears within the plan for the original subdivision of Berrima. The subdivision plan dates from 1831 and does not reflect the current subdivision standard of 1 hectare for the subject location in accordance with the provisions of Clause 50 (2) of the WLEP89. The property was historically used for farming and grazing purposes and remnants of the original homestead remain on Section 28.

The subject site has now been vacant for approximately 20 years and is currently dominated by extensive re-growth vegetation, comprised of a substantial mix of native vegetation and weed species including the exotic pine *Pinus radiata*.

A significant proportion of the site is visually prominent from the township of old Berrima, having significant vistas available to and from much of the western portion of the site to Berrima and the Wingecarribee River. The visual prominence and environmental significance of the location is reflected in the current zoning under the WLEP89 of 7(b) Environmental Protection (Landscape Conservation). Objective 1(a) of the 7 (b) zone is stated as being:

*‘to identify and protect areas of particular scenic value and to ensure the preservation of their cultural, heritage, aesthetic and environmental significance.’*

The above zoning requires that Council carefully assess the visual and environmental impacts of any development proposed for the site, with the property forming a natural visual

backdrop to the Berrima township. Significant vantage points from where the development site is visually prominent include 'Stone Quarry Walk' along the western bank of the Wingecarribee River, the commercial precinct of old Berrima, including views from the court house and views to and from Wingecarribee St. and Market Place. The proposed development calls for the removal of a substantial amount of both native and exotic vegetation.

### **PROPOSED DEVELOPMENT**

The proposal calls for the amalgamation of the existing 34 lots into 12 new lots inclusive of a road realignment. Lots sizes as proposed range from 2000m<sup>2</sup> within the south eastern portion of the site to 18,329m<sup>2</sup> (1.8hectares) within the north western portion of the site. Nine (9) of the proposed 12 lots fall below the minimum standard of 1 hectare by varying degrees. The proposed subdivision plan is included as **Attachment 1** to this report.

## **2. STATUTORY CONSIDERATIONS**

### **WINGECARRIBEE LOCAL ENVIRONMENTAL PLAN 1989**

The site is zoned 7(b) Environmental Protection (Landscape Conservation) under the zoning provisions of the WLEP89. Whilst this zoning normally has a minimum subdivision standard of 40 hectares, Clause 50 (2) of the WLEP89 permits Council's consideration of lot sizes with a minimum area of 1 Hectare specifically for the subject site. It is relevant that no total lot yield figure is identified within Clause 50 and that the clause is worded as a prohibitive standard, ie *'will have an area of not less than one hectare'*.

### **DRAFT LOCAL ENVIRONMENTAL PLAN 2007**

Council's draft LEP 2007 proposes the site to be zoned RU4 Smallholdings with a minimum lot size of 1 hectare. During the public exhibition process Council was in receipt of a submission from the applicant to have the southern portion of the subject site zoned to permit lot sizes of 2000m<sup>2</sup>.

On 30 April 2008 Council resolved to maintain the minimum 1 hectare lot size standard for the subject land, consistent with Clause 50 of the WLEP89. The application currently before Council proposes lot sizes down to 2000m<sup>2</sup> contrary to the minimum lot size of 1 hectare under the draft plan.

### **STATE ENVIRONMENTAL PLANNING POLICY NO 1**

The proposed development is contrary to the minimum lot size of 1 hectare as stipulated within Clause 50 (2) of the WLEP and the draft LEP2007. The original application was lodged without the required Objection under SEPP 1 and accordingly it was placed upon preliminary deferral. A SEPP 1 Objection was received on 22 July 2008. The applicant's SEPP 1 Objection is included as **Attachment 2** to this report.

It is considered that the use of SEPP1 is not the appropriate mechanism for consideration of the development as proposed. This is because the majority of the proposed lots (9 of 12 lots), depart significantly from the minimum standard of 1 hectare. Use of SEPP 1 should be for circumstances when there is a less significant departure from the relevant development standard proposed. In this case, the applicant is in effect asking Council to change the existing planning standard, rather than asking for some flexibility in implementing the

standard. An application with a more moderate departure from the existing planning standard could be dealt using an objection under SEPP1. Such an application would need to come forward from the applicant.

### **3. DEVELOPMENT CONTROL PLANS**

DCP 14 'Historic Berrima' applies as the development falls within both the 'Berrima Conservation Area' (**Attachment 3** to this report) and Berrima Visual Catchment Area' mapping identified within the DCP. The subject site is identified within the DCP as 'Precinct 9: South of River' with the stated desired future character for the Countess Street area being *'to protect the south eastern visual catchment area of the village by ensuring that any new development is suitably screened and sited.'*

### **4. REFERRALS TO EXTERNAL AUTHORITIES**

The site is bushfire prone land and is therefore integrated development with the Rural Fire Service in accordance with Section 100B of the Rural Fires Act 1997. The applicant provided Council with a bushfire management report which was duly referred to the RFS. The concurrence of the RFS was granted to the proposed development on 9 October 2008 with the requirement that Public Road and Property Access Roads comply with Section 4.1.3 (2) of *Planning for Bushfire Protection 2006*. Separate applications would be required to the RFS for all future dwellings to ensure compliance with asset protection zones.

### **5. REFERRALS TO COUNCIL COMMITTEES**

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

### **6. 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 4 submissions were received. The objections may be summarized as follows:

- Objection to non-compliance with the minimum lot size for the 7(b) zone of 40 Hectares as contained within the WLEP89. (It should be noted that some objectors were clearly unaware of the provisions contained under Clause 50 (2) of the WLEP89);
- Objection to the detrimental visual impact upon Berrima and in particular conflict with the visual catchment objectives as contained within DCP 14 'Historic Berrima';
- Objection to the possibility of precedent being created if Council were to support the proposed departure to the WLEP89 standard;
- Objection to the applicant's statement that 'services are available' given the constraints that may be imposed to sewer connection resultant from the sandstone geology;
- Objection to the impact upon the existing vegetation resultant from clearing within the subject site.

The applicant has been provided with copies of objections received and has provided Council with a written response. This response is included as **Attachment 4** to this report.

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## **7. INTERNAL STAFF COMMENTS**

### **ENGINEERING COMMENTS**

If Council were of a mind to support the proposed development the following engineering standards would apply:

- Road width to be 6m or as determined by RFS requirements;
- Road pavement to be asphaltic concrete;
- No K&G to apply. S/W disposal to be via grass swales diverted onto the subdivision for infiltration within the native vegetation.

### **STRATEGIC PLANNING COMMENTS**

Prior to lodgement of the current LUA the applicant made a submission (Rezoning Request Submission 79) to the exhibition of the draft LEP2007 requesting that the southern portion of the site allow a minimum allotment size of 2000m<sup>2</sup>. In consideration of this request, Council resolved on 30 April 2008 to reject the submission and to retain the 1 hectare minimum lot size. Given this outcome Council's Strategic Planning Branch has indicated that it would not support any further requests for variation to the draft Plan.

### **PLANNING COMMENTS**

#### Background

The supporting documentation accompanying the development application states that it is for a 'sub-divisional rezoning' whilst the LUA form states the development to be the 'amalgamation of 34 lots and creation of new 12 lot subdivision plus road adjustment'. All roads within the subject site are unformed, with the exception of Oldbury Street.

The applicant has previously been unable to gain Council support for rezoning of the subject site and this has triggered the current LUA to be lodged. As the rezoning request was not supported, the subdivision application is now being assessed on its merits with consideration of a SEPP 1 Objection rather than as a rezoning application.

A previous application for a 12 lot subdivision (LUA02/0326) was refused on 15 July 2002. As part of Council's resolution to refuse the application (Ordinary Council Meeting of 26 June 2002), the applicant was advised that Council would favourably consider a subdivision proposal totalling six (6) allotments.

The three reasons cited for refusal were non-compliance with the minimum subdivision standard of Clause 50(2) of the WLEP89, inappropriate use of SEPP 1 and the concurrent assessment of a rezoning application creating precedent for other applications seeking rezoning. In respect to the final reason for refusal it may be observed that conversely if Council were to support the current LUA that this would also lend weight to the applicant's argument for a rezoning to occur.

On the 2 February 2006 a Mr Rob Parker acting on behalf of the property owner attended a DCU meeting at Council. Following this meeting Mr Parker was advised in writing that Council would not be supportive of any future development application that was not in accordance with Clause 50 of the WLEP89 (ie: any future proposal must comply with the 1

Hectare minimum lot size). Mention was also made within Council's response of the visual prominence of the location and the need for future development to protect and enhance the bush setting of the site. As previously observed within this report, the application currently before Council does not comply with Clause 50 of the WLEP89.

#### SEPP 1 Objection

The SEPP 1 Objection prepared by the applicant is considered to be based upon poorly founded arguments for the following reasons:

- The applicant states that proposed lot sizes ranging in area from 2000m<sup>2</sup> to 18,329m<sup>2</sup> 'average' at 5,705.25m<sup>2</sup> over the total site area. It is to be noted that Clause 50 of the WLEP89 does not specify any lot yield for the subject site but does specify a minimum lot size of 1 Hectare. Lot sizes of 2000m<sup>2</sup> represent an 80% departure from the WLEP89 Clause 50 standard of 1 hectare. The averaging of lot sizes is considered to be an irrelevant argument in terms of compliance with Clause 50 of the WLEP89. It is more relevant to state that 9 of 12 lots do not meet the minimum requirement;
- The applicant argues that the proposed subdivision follows the existing land use patterns to the south and west of the site, however this land use pattern was established early in the development history of Berrima and does not necessarily reflect the land use controls as stipulated within the WLEP89 or those proposed within the draft LEP2007;
- The applicant argues that smaller lot sizes are more likely to have development screened by vegetation than that of larger (1 Hectare) lots and to have less visual impact upon the landscape. Such a claim is considered to be difficult to substantiate based upon the applicant's argument that 1 Hectare lots would be 'substantially cleared' for agricultural production. Experience would indicate that lots of this size are generally used for rural lifestyle living rather than for agricultural production;
- The applicant states that all services are available citing proximity to Berrima's sewer. Sewer access may not be a certainty given the sandstone geology of the site. Prior to Council's acceptance of the argument for the availability of sewer the applicant must demonstrate that access is not just theoretically available but that it is realistically achievable;
- The applicant's statement that there would be 'no adverse impacts upon vistas available from the township towards the site' is contentious given the need for extensive vegetation removal from the site to achieve compliance with RFS conditions and to provide building envelopes for future dwellings. The statement further does not consider the visual impact when viewed from public vantage points along the Wingecarribee River.

<b>MANAGEMENT PLAN ISSUES OR IMPLICATIONS</b>
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Nil

### **POLICY IMPLICATIONS**

It would be inappropriate for Council to utilise SEPP 1 for the current proposal as the variations sought are outside of what this policy was intended for.

### **BUDGET IMPLICATIONS**

Nil

### **ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

- (i) Environmental Factors  
The density of development proposed is not considered to be sustainable in the locality, having regard to the sensitive visual catchment of Berrima.
- (ii) Social Factors  
Additional housing opportunities in Berrima would be a positive social impact.
- (iii) Economic Factors  
The subject land has not been productive in many years and some development would be a positive economic impact.

## **8. CONCLUSION**

The proposed development does not meet the minimum subdivision standards as contained within both the current and proposed planning controls. The SEPP 1 Objection accompanying the application is not considered to be well founded. Further it is considered an inappropriate mechanism for seeking such a wide departure from Council's current and proposed planning instruments.

When assessed on merit, the proposed subdivision works and the extent of tree removal naturally resultant from development, would represent a negative visual impact detracting from the historic setting of the township.

A more modest proposal (less lots) would more likely overcome these concerns and if necessary, allow consideration of a more appropriate SEPP 1 objection. The applicant could utilise the provisions of s82A to allow Council to reconsider such a proposal.

It is therefore recommended that Council uphold the WLEP89, draft LEP2007 and Council officers merit assessment and refuse LUA08/0598.



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

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### ATTACHMENTS

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

1. Site plan prepared by Allman Johnston Architects Job No. 08-817 Dwg No. SK 2 dated June 2008;
2. SEPP 1 Objection prepared by Allman Johnston Architects dated 18 July 2008;
3. Berrima Conservation Area map extract from DCP 14 'Historic Berrima';
4. Response to objections prepared by Allman Johnston Architects received 25 November 2008.

### RECOMMENDATION

1. THAT Council authorise the Director of Environment and Planning to issue a refusal notice for the following reasons:
    - (a) The proposed subdivision does not comply with the minimum standard of 1 hectare in accordance with Clause 50 (2) of the WLEP89;
    - (b) The proposed subdivision does not comply with the draft LEP2007 proposed RU4 Smallholdings zone minimum lot size of 1 hectare;
    - (c) The proposed development represents an unacceptable visual impact upon both the natural and built environment within the locality of the historic Berrima township;
    - (d) The SEPP 1 Objection accompanying the application is considered not to be well founded.
  2. THAT the applicant be invited to lodge an application under s82A of the EPA Act with a reduced number of allotments.
- 

***(Voting on the motion)***



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

### Environment and Sustainability

#### **o-EP5 Proposed Multiple Occupancy Lot 3 DP579061, Murrimba Road, Wingello**

REF: DCM

LUA07/1180

Reporting on Section 82A request for Review of Refusal for Multiply Occupancy – staged development pursuant to Section 83B of the Environmental Planning & Assessment Act 1979, for 3 additional multiple occupancy dwellings – Lot 3 DP579061 Murrimba Road, Wingello.

#### REPORT

#### **BACKGROUND**

Council considered LUA07/1180 at the Ordinary Meeting of Council on 13 August 2008 (ATTACHMENT 1 previous Council Report).

Council resolved to refuse the application on the following grounds:

*“The Proposed Multiple Occupancy, Lot 3 DP 579061, Murrimba Road, Wingello be refused as it does not comply with the New Draft LEP as exhibited.*

Council is now in receipt of a request for review of its determination under S82A of the Environment and Planning Assessment Act 1979.

#### **SUBMISSION IN SUPPORT OF REVIEW**

The applicant has provided legal advice in support of the review (ATTACHMENT 2). The advice makes the point that gazettal of Council's draft LEP is far from certain or imminent and therefore cannot yet be given determinative weight, as has been done in dealing with this application. This is a view supported by the planning staff, hence the original recommendation for approval of the application. On a merit based assessment, there are no reasons why the proposal could not be supported.

#### ATTACHMENTS

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

1. Previous report to Council meeting of 13 August 2008
2. Letter in support of s82A application from Kells Lawyers dated 6 November 2008

#### RECOMMENDATION

THAT LUA07/1180 for 3 additional multiple occupancy dwellings at Lot 3 DP579061 Murrimba Road, Wingello be approved subject to appropriate conditions of consent to the satisfaction of the Director Environment and Planning.

THAT those people that made submissions be advised of Council's decision.

*(Voting on the motion)*



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### REPORT OF DIRECTOR ENVIRONMENT & PLANNING

#### Environmental Sustainability

<b>o-EP6</b>	<b>Amendment to Development Control Plan (DCP) No. 52 - Development Planning and Subdivision Guidelines for Bundanoon.</b>
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REF:	SPM
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5700/52
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The purpose of this report is to inform Council of the outcome of the exhibition period for the amendment to Development Control Plan (DCP) No. 52 - Development Planning and Subdivision Guidelines for Bundanoon.

On 30 January 2008 a meeting of the Strategy and Finance Committee resolved the following:

- ‘1. THAT Council endorse the proposed amendments to Bundanoon Development Control Plan No. 52 by removing provisions relating to the sewerage constraints as shown generally in accordance with Attachment 1.*
- 2. THAT Council place the amended DCP for Bundanoon on public exhibition for a period of 28 days and inform the relevant local community associations.*
- 3. THAT a report be presented to Council following exhibition to consider any submissions received and consider the adoption of the amendments, noting that the changes are not to come into effect before May 2009.’*

One submission was received in favour, and the nature of this submission is discussed below..

It is recommended that the proposed amendments to the DCP, removing existing constraints, proceed.

REPORT
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#### **BACKGROUND**

DCP 52 was amended in October 2004 by the insertion of Part 6 (attached), to include provisions that restricted medium density residential development and subdivisions in Bundanoon. The moratorium was put in place due to the limited capacity of the Bundanoon Sewerage Treatment Plant (STP) to accommodate additional sewage connections presented by these types of development. They were introduced as an interim control until such time as the STP was upgraded.

Attachment 1 contains a list of the proposed amendments to be removed from DCP 52. The amendments to DCP 52 are notated in red font and struck through as shown.

In response to Part 2 of the above resolution, the proposed amendments to DCP 52 to lift the moratorium to development were placed on public exhibition between the 5 November and 3 December 2008.

The original report (14 July 2004) proposing the moratorium gave a scheduled completion date for the STP works as January 2007. More recent reports (30 January 2008 Strategy & Finance Committee – S&F Committee) put the scheduled completion date at May 2009.

### **CURRENT POSITION**

Council's Sewerage Projects Coordinator advised on the 17 November 2008, that the augmentation works are now scheduled for completion in October 2009. He also advised that this completion date is dependent on favourable weather so there is a possibility that the scheduled completion date could be further extended.

There are therefore two lead-in times that must be considered when bringing the proposed changes into effect. The first is that additional capacity will need to be available as new dwellings near completion (connections to the sewer must be made prior to the issue of Occupation Certificates for new dwellings). The second lead-in time is for when the augmentation works will be commissioned.

To address the first lead-in time, Council is currently imposing Deferred Commencement Conditions on recent development consents for the abovementioned types of development in Bundanoon. For example:

1. *No construction to be commenced until the sewerage connection moratorium is lifted in accordance with Part 6.4 of the Wingecarribee Development Control Plan No 52 – Development Planning and Subdivision Guidelines for Bundanoon*

It is recommended that this practice continue until such time as the augmentation works have been commissioned. To address the second lead-in time, public notification of the completion of the works should be placed in newspapers circulating locally.

In view of this, Council may endorse the recommendation of this report to retain the proposed amendment as struck through. This should be accompanied by a later date, closer to the scheduled completion date of the augmentation and/or when the works have been completed, to cease imposing the above deferred commencement condition, give effect to the struck through provisions and notifying the public of the completion of the works.

### **SUBMISSIONS**

The proposed amendments were exhibited between the 5 November and 3 December 2008.

In response to the exhibition period, the following submission was received:

- Bundanoon Community Association (BCA)

The Bundanoon Community Association requested changes to DCP 52 of which the proposed amendments (in relation to the moratorium restrictions) are not part. It is considered that the changes requested by the BCA not be supported at this time but be considered as part of the review of all DCPs being conducted to compliment the draft shire wide LEP.



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

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### MANAGEMENT PLAN ISSUES OR IMPLICATIONS

There will be no implications for Council's Management Plan.

### POLICY IMPLICATIONS

The amended development control plan will form Council's policy on this issue

### BUDGET IMPLICATIONS

There are no direct budget implications for the recommendation.

### ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

(i) Environmental Factors

The upgrading of the treatment plant and provision of additional capacity for the Bundanoon STP will enable medium density development and subdivision within the Bundanoon locality without impacting on downstream water quality.

(ii) Social Factors

The release of the moratorium will enable the development of land that has been delayed because of the constraints on the STP capacity.

(iii) Economic Factors

The release of the moratorium should be a positive impact in the town.

### CONCLUSION

The proposed amendment will remove the moratorium on medium density residential development and subdivision in Bundanoon. The scheduled completion date for the augmentation works is October 2009.

It is intended that the provisions relating to the moratorium will remain in the DCP 52 until 1 October 2009. In the meantime the practice of the 'Deferred Commencement' Consents will continue. Notification may also be placed on the front cover of the DCP noting '*DCP 52 shall be amended by removing the struck through provisions when the Bundanoon Sewerage Treatment Plant augmentation works have been completed*'.



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

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### ATTACHMENTS

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The proposed amendments to DCP 52 are circulated separately.

### RECOMMENDATION

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1. THAT Council adopt the proposed amendments to Development Control Plan No. 52 – ‘Development Planning and Subdivision Guidelines for Bundanoon’ in accordance with Attachment 1.
  2. THAT the proposed amendments to DCP 52 take effect from 1 October 2009.
  3. THAT the following notation be placed on the front cover of DCP 52 - ‘*DCP 52 shall be amended by removing the struck through provisions when the Bundanoon Sewerage Treatment Plant augmentation works have been completed*’.
  4. THAT Council notify its resolution when augmentation works have been completed through a newspaper circulating locally in accordance with the Environmental Planning & Assessment Regulations 2000.
- 

***(Voting on the motion)***



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

### Lifestyle and Community

#### **o-EP7 Request for Council representation on SH Community Transport Inc Management Committee**

REF: SPM

FILE 7320/2

Reporting on request for Council representation on the Management Committee of Southern Highlands Community Transport Inc.

#### **REPORT**

Southern Highlands Community Transport (SHCT) assists Shire residents who are transport disadvantaged, most particularly older persons, persons with a disability and their carers. Services include group and individual transport provided by volunteer or paid drivers depending upon client support needs.

Council has for many years maintained and replaced two twenty seater mini buses operated by SHCT for group services including regular shopping routes, social outings, day care centre and health related transport. Government funding also enables SHCT to operate a fleet of six motor cars used predominantly for health related transport.

Under a Deed of Agreement established in 2002, Council retains ownership of the two mini buses while SHCT is responsible for management. This Agreement requires that a nominated representative of Council is an appointed member of the SHCT Management Committee. Clr Gordon Lewis consistently fulfilled this role up until retirement in September 2008

#### **CONCLUSION**

At the SHCT Annual General meeting in October 2008, Council was acknowledged for its continuing support to community transport and Plant Superintendent, Robert Gilroy for quality of service in relation to bus maintenance and prompt assistance at all times. The President spoke highly of Clr Lewis referring to his long-term commitment and valuable contribution and requested that another Council delegate be nominated for appointment to the Committee.

#### **MANAGEMENT PLAN ISSUES OR IMPLICATIONS**

There are no Management Plan implications associated with this request.

#### **POLICY IMPLICATIONS**

There are no policy implications associated with this request.

#### **BUDGET IMPLICATIONS**

There are no additional budget implications associated with this request.

**ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

- (i) Environmental Factors - not applicable
- (ii) Social Factors

SHCT provides essential services to persons who are transport disadvantaged due to frailty, illness, disability or circumstance such as financial adversity. Services include basic shopping, access to respite care and health services, social outings to address social isolation and bus hire for community groups. Some services are delivered in partnership with Wingecarribee Adult Day Care Centre and with Rosnel and Sunshine Lodge, providers of boarding house accommodation for people with intellectual disabilities. Other programs include travel training for persons who could use bus or train services once assisted to navigate service times and routes.

For 2007 – 2008 SHCT recorded 44,362 occasions of service including 27,450 bus passenger trips for shopping purposes and social outings plus 188 passenger trips through bus hire. Car fleet statistics include 16,326 passenger trips to medical appointments, hospital and nursing homes complimented by 398 passenger trips provided in vehicles owned by volunteers.

- (iii) Economic Factors

SHCT is a reputable and well managed community based organisation. For 2007-2008, recurrent government funding totalled \$416,935 and gross income \$583,101, representing an increase of \$65, 1412 since the previous financial year notwithstanding increased fuel costs and service relocation. Expenditure of \$494,257 represented 61% salaries and 12% vehicle running costs, with budget surplus applied to vehicle replacement. With 4.9 EFT employees, SHCT provides a livelihood for three fulltime and four part time workers and employs six casual drivers.

**ATTACHMENTS**

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

1. Copy of Memorandum of Understanding, SH Community Transport
2. Letter from Ian Langford, President, SH Community Transport Inc.

**RECOMMENDATION**

THAT Council nominates a delegate to be appointed to the Southern Highlands Community Transport Inc. Management Committee.

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***(Voting on the motion)***

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### REPORT OF DIRECTOR ENVIRONMENT & PLANNING

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#### Lifestyle and Community

<b>o-EP8 Wingecarribee Prize for Prints and Works on Paper</b>
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REF:	1660/4 1650/14
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Reporting on proposed change to the entry conditions of the Wingecarribee Prize for Prints and Works on Paper.

REPORT
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The Wingecarribee Prize for Prints and Works on Paper is awarded every two years. This Prize competition is organised by Bowral and District Art Society (BDAS) and entries are exhibited in the BDAS gallery. Council contributes \$3000 in prize money from the Arts and Culture Board Working Group budget.

In a letter to Council on 8<sup>th</sup> January 2009, the BDAS President, Mrs Marika Schmidhofer, requested that Council approve a change in entry conditions for this prize. In previous years, entry has been restricted to Shire residents and BDAS members. The BDAS is putting forward a case to make entry open to all artists (not only local residents) on the basis that this would increase the number of entries and therefore increase the income from entry fees. Entry fees assist with the costs of running the competition which include electricity for gallery lighting, advertising, printing, postage and judges' expenses.

Many other Council art prizes do have open entry. Open entry also provides an opportunity to raise the standard of entries as artists compete with a wider field. Although it is possible the prize money may go to a non-local artist, local artists would still benefit. As prize money is relatively modest compared to other competitions, it is not expected that the number of entries would become overwhelming. Also, as it is expensive to transport art work, in practice it would probably mainly still attract local entrants plus artists from neighbouring Council areas.

As entry forms need to be printed by the end of January 2009, there is not the opportunity for the matter to go before an Arts and Culture Board Working Group meeting.

MANAGEMENT PLAN ISSUES OR IMPLICATIONS
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Nil

POLICY IMPLICATIONS
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Nil

BUDGET IMPLICATIONS
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Nil

**ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

- (i) Environmental Factors  
-
- (ii) Social Factors  
-
- (iii) Economic Factors  
-

**ATTACHMENTS**

There is one attachment to this report – Letter from Bowral and District Art Society

**RECOMMENDATION**

THAT Council endorse a variation to entry conditions for the Wingecarribee Prize for Prints and Works on Paper to provide for open entry, with the current requirement for entrants to be Shire residents or members of the Berrima and District Art Society removed from competition rules.

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*(Voting on the motion)*



**Scott Lee**  
**Director, Environment and Planning**

**22 January 2009**

**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

**ATTACHMENT 1**

SCANNED



**BOWRAL & DISTRICT ART SOCIETY Inc.**

(formerly Berrima District Art Society Inc.) ABN 86 792 964 696 CFN15816

8 January 2009

Mr. M. Hyde, General Manager,  
Wingecarribee Shire Council  
PO Box 141  
MOSS VALE 2577

WINGECARRIBEE SHIRE COUNCIL		
Classification:	MAILINI	
Doc. No.		
File No.	1650/14 1306734	
- 9 JAN 2009		
OFFICER	ACTION	INFO
J. Kena	✓	

ORIGINAL  
SENT

Dear Mr. Hyde,

**Wingecarribee Shire Council Art Prize**

Towards the end of March and including the Easter break the BDAS will be holding the Wingecarribee Shire Council Biennial Prize for Prints and Works on Paper. The prize money, as you are aware, is \$3,000, \$2,000 for the Work on Paper Prize, and \$1,000 for the Print Prize.

The prize is well supported by the Shire's artists as well as members of the BDAS. It has always been restricted to shire residents and BDAS members. The committee would very much appreciate Council's agreement to the exhibition being open to all artists.

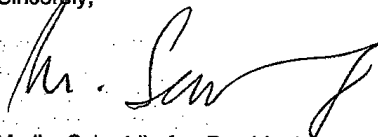
There are many Councils who stage and sponsor similar art prizes. Some prizes are in excess of \$20,000. Campbelltown Council's Fishers Ghost Prize, is one, Drummoyne and Mosman also stage similar prize exhibitions. It augurs well for their public image, and demonstrates their support for the arts. All of them are open.

There are many fixed costs associated with the running of an exhibition. The electricity is a major expense; gallery lights are on all day and very often have to be replaced during an exhibition. Advertising is very costly. We promote exhibitions in prestigious art publications and newspapers. Printing and postage costs are also considerable. Plus the cost of judging.

Entry fees go some way to meeting these costs. Lifting the restriction would increase the number of entries.

We trust you understand and appreciate the request and give it your approval. Time is of the essence, as entry forms will need to be printed in the next two weeks.

Sincerely,



Marika Schmidhofer, President

[Ph: 4862 1295]

CC: J. Arkwright  
J. Kena

GALLERY & WORKSHOP . Phone: (02) 4861 4093  
Short Street Bowral 2576 PO Box 144 Bowral 2576  
Email: b.d.a.s@bigpond.com Web: www.bdasgallery.com



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

## CORPORATE SERVICES DIVISION

### Governance and Accountability

#### o-CS1 Investments as at 31 December 2008

REF: FSM 2104

Submitting details of Council's Investments as at 31 December 2008.

#### REPORT

A list of Council's investments as at 31<sup>st</sup> December 2008 has been included on **Attachment 1** for information. As with the Investment report for November, it should be noted that the investments have been listed at their face value as Council's Safe Custody nominees ANZ, have advised that they are currently finalising a report on estimated market values of CDO's as at 31 December 2008. It is anticipated therefore that the report presented to Council in February 2009 will reflect these updated valuations, which will provide Council and the community with a current assessment of the value of Council's investments.

As a result of the lack of liquidity and confidence in the global financial markets, it has been extremely difficult to determine the current position of the CDO investments in Council's portfolio and the strength of the referenced entities within those investments.

Since transferring safe custody to ANZ, Council has not received details on the performance of its investments or the impact of the current credit crisis on the tranches within those investments. This lack of information creates significant operational issues as Council has no details on the value or risks of the underlying referenced entities within those investments. It would therefore be appropriate for Council to source this data on the individual investments and their referenced entities.

While interest received from investments totalled \$2,009,888.64 as at 31<sup>st</sup> December 2008, the markets are forecasting a continued decline in the cash rate for the remainder of this financial year. While this will impact on Council's return on investments it is estimated at this point in time that income from interest on investments will meet budget for 2008/09.

#### ATTACHMENTS

There is one attachment to the report being the list of cash and investments held by Council as at 31 December 2008.

#### RECOMMENDATION

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

**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

**REPORT OF DIRECTOR CORPORATE SERVICES**

**ATTACHMENT 1**

<b>SUMMARY OF INVESTMENTS HELD AS AT 31 December 2008</b>			
<b>Bank</b>	<b>Arranger</b>	<b>Value</b>	<b>Total</b>
<b><u>Floating Rate Notes</u></b>			
Adelaide Bank FR Sub Debt		3,500,000.00	
Bank of Qld Sub Debt		7,000,000.00	
Elders Rural Bank Sub Debt		500,000.00	
Elders Rural Bank Sub Debt		1,000,000.00	
Elders Rural Bank Sub Debt		500,000.00	
HSBC FRN		6,500,000.00	
Macquarie Bank Sub Debt		500,000.00	
Royal Bank Scotland		2,000,000.00	
Elders Rural Bank		1,000,000.00	
Westpac		500,000.00	
St George		1,000,000.00	
<b><u>Property Note</u></b>			
Lehman		560,000.00	
<b><u>Floating Rate &amp; Property Notes</u></b>		24,560,000.00	
<b><u>CDO's</u></b>			
Aphex Glenelg (AA-)	Nomura International Plc	2,250,000.00	
Corsair Kakadu (AA)	JP Morgan Aust Ltd	1,500,000.00	
Corsair Torquay (BBB-)	JP Morgan Aust Ltd	2,500,000.00	
Helium Esperance (BBB+)	Merrill Lynch Int	2,000,000.00	
Helium Scarborough (BBB+)	Merrill Lynch Int	2,700,000.00	
Magnolia Flinders (AA)	Credit Suisse	5,100,000.00	
Omega Henley (AA-)	BNP Paribas	2,000,000.00	
Starts Blue Gum (BBB+)	HSBC Bank	1,050,000.00	
Cypress Tree Lawson (A-)	Calyon	1,000,000.00	
MAS6-7 Parkes (BBB-)	Morgan Stanley	2,000,000.00	
Bishopgate Wentworth (AA-)	Calyon	500,000.00	
Zircon Coolangatta (AA)	Lehman Bros	2,000,000.00	
Saphir Endeavour (AAA)	Lehman Bros	140,000.00	
Beryl (AA)	Lehman Bros	4,000,000.00	
Zircon Merimbula (AA)	Lehman Bros	500,000.00	
<b><u>Total CDO's</u></b>		29,240,000.00	
<b><u>Total Securities</u></b>			53,800,000.00
<b><u>Bank Accepted Commercial Bills</u></b>			
NAB		3,000,000.00	3,000,000.00
Macquarie Cash Management Trust		618,145.13	618,145.13
<b><u>Short Term</u></b>			
NAB		4,500,000.00	4,500,000.00
			61,918,145.13



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

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#### **o-CS2 Easement for Drainage – 44 Wattle Street, Colo Vale**

REF. PO

PN 427200

Request for the Common Seal of the Council to be affixed to the Transfer Granting Easement over 44 Wattle Street, Colo Vale.

#### **REPORT**

Council has negotiated with the owner of Lot 2 Section 11 Deposited Plan 2389 being known as 44 Wattle Street, Colo Vale for the granting of a drainage Easement.

The Common Seal of the Council is required to be affixed to enable the Easement for drainage to be registered.

Attached is a copy of the design plan showing the location and dimension of the Easement.

#### **CONCLUSION**

It is recommended that Council resolve to affix the Common Seal of the Council to enable the Easement to be registered.

#### **ATTACHMENTS**

There is one attachment to this report being the design plan showing location of easement.

#### **RECOMMENDATION**

THAT the Common Seal of the Council be affixed to the Transfer Granting Easement to enable the Easement to be registered at the Department of Lands.

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

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#### **o-CS3 Pecuniary Interest Returns as at 24 December 2008**

REF: DCS

101/3

Tabling Register of Pecuniary Interest Declarations as at 24 December 2008.

#### REPORT

All Councillors and “designated employees” must lodge a Disclosure of Interest Return within three (3) months of commencement of their employment with Council and then annually.

Section 450A of the Local Government Act 1993, requires that these Returns be tabled at the first Council meeting after the last date of lodgement.

The Returns of Councillors and designated persons will be tabled at the meeting.

#### ATTACHMENTS

There are no attachments to this report.

#### RECOMMENDATION

THAT the information be received and noted.

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## REPORT OF DIRECTOR CORPORATE SERVICES

### **o-CS4 Lease to Telstra Corporation of Part Berrima Reservoir**

REF. MAS

PN1707171

Submitting a report requesting that the Lease, previously negotiated and approved by Council, with Telstra Corporation for the use of Part Lot 1 DP 735013 being part Berrima Reservoir, Old Hume Highway, Berrima to be executed under the Common Seal of Council.

#### REPORT

At the Ordinary Meeting of Council dated 12 December 2007, Council adopted the Minutes of the Legal Committee meeting held on 24 October 2007 for the lease of land at Berrima Reservoir (Part Lot 1 DP 735013) for the purpose of constructing and operating a mobile network facility. The recommendation adopted by Council states:

1. THAT Council negotiates Heads of Agreement with Telstra Corporation for the lease of Part Lot 1 Deposited Plan 735013 known as the Berrima Reservoir.
2. THAT subject to 1 above, the lease be for a period of five (5) years with three five (5) year options.
3. THAT rental in the first year be \$16,000 plus GST.
4. THAT the rental shall increase annually by 5% of the previous year's rental.
5. THAT all Council's reasonable legal costs be paid by Telstra.

Development consent (LUA 08/0092) was granted by Council on 18 June 2008 and the lease is ready to be executed. It is therefore requested that Council approve the execution of the Lease under the Common Seal of Council.

#### ATTACHMENTS

There are no attachments to this report.

#### RECOMMENDATION

THAT the Lease Agreement between Council and Telstra Corporation for Part Lot 1 DP 735013, part Berrima Reservoir, Old Hume Highway, Berrima be executed under the Common Seal of Council.



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

#### **o-CS5 Committee Appointment Wingello Mechanics Institute Hall Management Committee**

REF: MAS

7223/1

Reporting on the Appointment of the Wingello Mechanics Institute Hall Management Committee

#### REPORT

#### **BACKGROUND**

On the 31 October 2008 it was gazetted that Wingecarribee Shire Council be appointed as the corporation to manage the affairs of the Wingello Mechanics Institute Hall Reserve Trust.

Council advertised for 28 days for expressions of interest from members of the community who would be interested in applying for one of twelve (12) positions on the Wingecarribee Shire Council's Wingello Mechanics Institute Hall Management Committee.

#### **OBJECTIVES OF THE COMMITTEE**

1. To maximise the use of the Wingello Mechanics Institute Hall for the benefit of the Wingello community in accordance with Council's policies.
2. To hire the facility to users at fees recommended by the Committee and approved by Council.
3. To ensure the internal part of the facility is kept secure, in good repair and in a safe, clean and tidy condition at all times.
4. To receive monies from the hiring of the facility and expend funds as necessary in meeting the above objectives and to pay operating expenses such as power and heating.

#### **NOMINATIONS RECEIVED**

The closing date for nominations was 23 December 2008. Council received the following seven nominations:

Ann Anderson, David Bruggeman, Carol Degrassi, Sylvia Jeffery, Clarence (Jack) Jeffery, Ian Sheldrick, and Evie Williamson.

A further nomination was received on 15 January 2008 from Thelma Robertson.

#### MANAGEMENT PLAN ISSUES OR IMPLICATIONS

N/A

#### POLICY IMPLICATIONS

N/A



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

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#### BUDGET IMPLICATIONS

Nil

#### ATTACHMENTS

There are no attachments to this report.

#### RECOMMENDATION

THAT Ann Anderson, David Bruggeman, Carol Degrassi, Sylvia Jeffery, Clarence (Jack) Jeffery, Ian Sheldrick, Evie Williamson and Thelma Robertson be appointed to the Wingello Mechanics Institute Hall Management Committee AND THAT Ann Anderson, David Bruggeman, Carol Degrassi, Sylvia Jeffery, Clarence (Jack) Jeffery, Ian Sheldrick, Evie Williamson and Thelma Robertson be notified of Council's determination.

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

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#### **o-CS6 Leave of Absence – Cllr Paul Tuddenham**

REF: MAS

PERS

Reporting on request from Cllr Paul Tuddenham for leave of absence from Council.

#### REPORT

Cllr Paul Tuddenham has written to Council on Tuesday 20 January 2009 advising that he has incurred an injury which required surgery. He is currently incapacitated and unable to drive his motor vehicle and has requested eight (8) weeks leave of absence from Council.

#### MANAGEMENT PLAN ISSUES OR IMPLICATIONS

NIL

#### POLICY IMPLICATIONS

NIL

#### BUDGET IMPLICATIONS

NIL

#### ATTACHMENTS

There are no attachments to this report.

#### RECOMMENDATION

THAT Councillor Paul Tuddenham be granted leave of absence from Council from Tuesday 20 January to Tuesday 17 March 2009.

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

<b>o-CS7 Council Investments – Proposal from (PPB) Administrator – Lehman Brothers Australia Ltd</b>
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REF: DCS	2104, 107/9
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Reporting on status of discussions with (PPB) Administrator – Lehman Brothers Australia Ltd.

REPORT
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### **BACKGROUND**

Wingecarribee Shire Council along with a significant number of other Councils from both New South Wales and Western Australia have been involved in ongoing discussions with PPB (Administrators – Lehman Brothers Australia Limited).

The Administrators have put forward a confidential draft proposal to the creditors of Lehman's Australia Limited, which is expected to be formally presented to a meeting of creditors by 13 February 2009.

Council has sought and received advice on this proposal and has considered its position having noted the independent advice.

### **LEHMAN'S IN ADMINISTRATION**

It is understood that the Administrator of Lehman's Australia Ltd, (PPB) will be providing a report to creditors within the coming weeks and will make a recommendation on how the administration should proceed.

There are three (3) potential ways forward for the company:

- (i) The creditors vote to place the company into liquidation, and a liquidator is appointed.
- (ii) The creditors approve a Deed of Company Arrangement (DOCA) that binds the Administrator. The DOCA will provide that the company pay all or part of its debts to creditors.
- (iii) The creditors decide to hand the company back to the Directors.

Discussion with the Administrator indicates that a Deed of Company Arrangement (DOCA) is likely to be submitted by the administrator for consideration by Creditors by 13 February 2009. Council needs to determine its preferred position and vote accordingly at the meeting of creditors to be held by 13 February 2009.

As Council is aware, we are currently disputing the value of the "proof of debt" admitted by the Administrator for Wingecarribee Shire Council at the first creditors' meeting held on 9 October 2008, and an "Amended Proof" is currently being prepared, to be submitted to the Administrator. Council may need to take further action if our claim for an "Amended Proof" of debt is rejected by the Administrator, or is not admitted for the full value.

It is imperative that Council's "Amended Proof" is admitted to ensure that Council's interests are properly represented in any vote taken to determine how the administration proceeds.



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If a vote were to proceed without finalisation of the amended proofs, Wingecarribee Shire Council along with a significant number of other Councils would not be able to vote to the value of its litigated claim against Lehman Brothers Australia Limited.

#### **CONCLUSION**

As discussed with Councillors, Council may need to take urgent action on these matters or other matters that come to hand. It is proposed therefore that authority be given to the Mayor, Chair of Finance and Internal Audit Committee and the General Manager to deal with these urgent issues, with the following provisos.

- (i) That the actions authorised by the Sub-Committee are minuted and promptly reported to Council
- (ii) That any actions authorised by the Sub-Committee be limited to \$10,000 expenditure in each case. Any matters exceeding a commitment of more than \$10,000 must be authorised by the full Council, and if necessary an Extraordinary Meeting convened.

In relation to discussion with PPB – Administrator of Lehman Brothers Australia Limited, that Council confirm the actions recommended in advice from our legal advisors.

It is noted that Council will retain the CDO investments notwithstanding any arrangement negotiated with the Administrator (PPB) and it is anticipated that we will have a more current independent valuation of Council's CDO investments in the near future. Once this valuation report is received we will be in a better position to assess the potential losses and consider a strategy moving forward.

A further report will be presented to Council as soon as this information becomes available.

<b>ATTACHMENTS</b>
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There are not attachments to this report.



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#### RECOMMENDATION

1. THAT Council confirm a Sub-Committee consisting of the Mayor, Chair of Finance and Internal Audit Committee and the General Manager to deal with urgent matters relating to Council's claims against Lehman Brothers Australia Limited.
  2. THAT meetings of the aforementioned Sub-Committee be minuted and promptly reported to Council.
  3. THAT the Sub-Committee be authorised to incur expenditure of up to \$10,000 on particular actions AND THAT any matters expected to exceed \$10,000 be referred to Council for consideration with an Extraordinary Council Meeting to be convened when necessary.
  4. THAT Council lodge an Amended Proof of debt with the Administrator (PPB) as soon as possible.
  5. THAT if the Administrator (PPB) rejects the Amended Proof, or admits them for less than full value, that appropriate action be taken.
  6. THAT if Council is not permitted to vote for the full value of its litigated claim, AND FURTHER if a Deed of Company Arrangement (DOCA) is accepted, THAT Council take appropriate action.
-



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### REPORT OF DIRECTOR CORPORATE SERVICES

#### **o-CS8 Community Representatives for Appointment**

REF. MAS

107/34

Reporting on nominations for community representatives for the Finance and Internal Audit Committee.

#### REPORT

#### **BACKGROUND**

Council at its meeting held on Wednesday 17 December 2008 considered a report in relation to the election of Delegates and Representatives to Committees, and resolved to readvertise for nominations for the Finance and Internal Audit Committee.

#### **ADVERTISING**

Council has placed advertisements in its Local Page of the Southern Highland News and Post and also forwarded a press release to the various media outlets advising that Council is seeking nominations from the community.

#### **NOMINATIONS RECEIVED**

The following nominations have been received from Community Members:-

1. Mr Geoff Ball
2. Mr Lyle Briggs
3. Mr Noel B Crellin, OAM, F.C.A.
4. Mr Peter Cunningham
5. Mr Graham Leech
6. Mr John Robertson McKindley
7. Mr Ian Scandrett
8. Mr Peter William Smyth.

#### MANAGEMENT PLAN ISSUES OR IMPLICATIONS

Nil

#### POLICY IMPLICATIONS

Nil

#### BUDGET IMPLICATIONS

Nil

#### ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES



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(i) Environmental Factors

Nil

(ii) Social Factors

Having members of the Community serve on Council's Committees assists Council with diverse decision making.

(iii) Economic Factors

Nil

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#### ATTACHMENTS

The names and reasons for wishing to join the Finance and Internal Audit Committee have been distributed to Councillors under separate cover.

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#### RECOMMENDATION

THAT the following community members be appointed to the Finance and Internal Audit Committee:

- 1.
  - 2.
- 

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<b>o-CS9</b>	<b>Tulip Time 2008 Festival Outcome</b>
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REF:	TM
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1671/8
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The purpose of this report is to report on Tulip Time 2008.

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## ORDINARY MEETING OF COUNCIL

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## REPORT

### **BACKGROUND**

Tulip Time (TT) 2008 was successful, resulting in income generated for 2008 of \$251,757 (not profit) and a total visitation to Corbett Gardens of 26,783 over the 14 day period. Both turnover and visitation were lower in comparison to last year's Tulip Time Festival as a result of wet weather on the long weekend of this year's Festival and also the economic climate contributed to a major downturn in visitation, ie high petrol prices, high interest rates and lack of disposable income, etc.

### **FACTORS CONTRIBUTING TO THE SUCCESS OF TULIP TIME 2008**

**Early Planning** and communication of 2008 theme and program to local government, industry, community, potential sponsors and media.

**Theme** - Promoting awareness of mental illness and depression as the core theme engaged the local community, media and sponsors to support Tulip Time 2008. The mental illness theme was also supported with theme colour of orange/black representative of the Tulip Time Charity, the Black Dog Institute (BDI).

**Supporting a well known National Charity/Foundation** in the form of the Black Dog Institute allowed for media and advertising benefits at no cost to Tulip Time. This escalated the profile of Tulip Time and the Southern Highlands as a tourism destination on a national scale. As an outcome of Tulip Time 2008 the BDI established two (2) Mood Assessment Program Centres (MAP) in the Southern Highlands located at Bowral and Mittagong, with another planned for the region.

**Celebrity Profiles** – the involvement of celebrities generated national publicity and public interest for the event, such as Australia's prized Still Life artist, Margaret Olley, media personality and Tulip Time Ambassador, Maggie Tabberer and swimming legend, John Konrads, along with a number of invited high profile guest speakers.

**Greater Community involvement** and access to events, ie Tulip Time Dinner, Bowral Street Parade, private gardens and local retailers being involved in the window display competition.

**Garden Trail** – The development, this year of a dedicated garden trail increased visitation to Tulip Time Festival outside of Corbett Gardens. Private gardens which directly participated in Tulip Time 2008, were Red Cow Farm, Greenbrier Park, Chinoiserie Peony Garden, Back O' Moon, Moidart, Milton Park. All gardens reported increased visitation over the previous year.



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**Sponsorships Support** from local and external partners continued to provide Tulip Time with much needed financial backing to undertake the promotion and marketing of this year's event. Sponsorships secured for 2008 were as follows:

- Austral Bricks - \$10,000
- Renwick/Landcom - \$20,000
- Peter Warren (Macarthur Mercedes) - \$2,000
- Bowral Senior Citizens - \$1,000.00

2008	2007
\$33,000	\$41,000*

\*It should be noted that in 2007 TT was granted a Tourism NSW Flagship event funding contribution of \$10,000 to assist in the marketing of the event. This was a one off funding program.

It should be noted that there were other in-house sponsors such as Milton Park, Glam and Solar Springs who supported Tulip Time by donating prizes and giveaways at the Tulip Time Gala Dinner.

**Donation of Major Artwork for Fundraising** – Australian award winning artist, Margaret Olley commissioned and donated a painting, at no cost to Tulip Time, which sold for \$50,000 at the Tulip Time Gala Dinner. Proceeds from the sale of the painting are to be equally divided between the Black Dog Institute and Tulip Time. 200 prints of the original painting were produced and sold during Tulip Time at @\$50.00 each. Income from print sales totaled \$3,100.

#### Entry - Gate Takings

Gate Takings continue to be a major source of funding for the Festival. As a result of wet weather, on the busiest weekend of Tulip Time, takings overall were significantly down as follows:

2008	2007
\$138,663	\$159,207

#### Black Dog Institute/ Tulip Time Gala Dinner – Mittagong RSL

The Tulip Time fundraising dinner was organized by Mittagong RSL in conjunction with Tulip Time. The dinner attracted 220 people. The profits of the ticket sales generated from this dinner are to be donated to the Black Dog Institute which represented \$6,457.

Tulip Time arranged for the auction of the Margaret Olley painting that was donated at no cost to Tulip Time. This painting was auctioned and raised an incredible \$50,000, the proceeds of which will be equally divided between the BDI and Tulip Time.

A number of silent auctions were conducted on the evening, which raised \$3,915. Revenue from the silent auction was down compared to last year whereby \$14,000 was generated for the McGrath Foundation, this was due to the large number and quality of donated sporting items.

Overall the Gala Dinner auction raised \$53,915.

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#### **Tulip Time Hamper Raffle**

This year a hamper of local products was donated and raffled. The tickets sold for \$2.00 each and the raffle raised \$2,076. Last year the hamper raffle raised \$12,681.

The sale of raffle tickets was organised by Bowral Lions Club volunteers in Corbett Gardens and at the Gala Dinner during the Festival.

#### **Stalls**

The continuation of stalls in Corbett Gardens provided further financial support and substantial income for TT, along with showcasing the regions food and wine and places of interest. These stalls added to the colour and experience of the Tulip Time Festival for visitors. Two theme weekends were built into the program which allowed for different stall holders during the Festival, ie Food & Wine Festival and the Specialist Garden Show.

Stall revenue is \$26,400. Site rentals fees were up on last year.

2008	2007
\$26,400	\$24,786

#### **Tulip Time Program**

The production of a dedicated Tulip Time program in conjunction with Rural Press assisted in the early distribution and communication of the 2008 Festival. 40,000 TT brochures were printed for distribution. Additionally, the program was a cost recovery project, therefore not costing TT for the publication.

#### **Bulb Dig Up**

The Tulip Time bulb dig was held on 25 October 2008. 2008 Bulb Dig Up raised \$5,462.60 compared to 2007 \$2,652. This increase in revenue was a result of advanced marketing and promotion of the event.

2008	2007
\$5,462.60	\$2,652.00

#### **Co-Operative Marketing Initiatives**

A number of co-operative marketing initiatives were this year undertaken such as the printing of the coach brochure. Advertising within the coach brochure assisted in netting a profit of \$1,275 towards TT.

#### **Volunteers**

Tulip Time continues to attract tremendous support from local volunteer organisations such as, Rotary and Lions Club.

The Bowral Rotary Club and the Lions Club did an excellent job staffing the entry gates and assisting the BDI in Corbett Gardens.



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**New Tulip Time Brand** – Tourism Southern Highlands developed and introduced a new brand for Tulip Time Festival, along with the redevelopment of the TT web-site. Both activities assisted in lifting the profile of TT as a major event whilst giving greater access to information.

#### **ISSUES REQUIRING ATTENTION**

##### **Themed Gardens**

Several of the garden beds unfortunately were not of the usual high standard of previous years due to problems associated with the bulbs provided. The Princess of the Night (black) tulip failed to flower. Also, there was a number of garden beds that were plagued with fungus.

##### **Tip Toe Thru the Tulips Garden Talk**

The “Tip Toe Thru the Tulips” free garden talk and tour was unable to be conducted by WSC staff due to staff shortages, however last minute volunteers were recruited to undertake this popular activity in Corbett Gardens.

##### **Street Parade**

The Bowral chamber of Commerce who manage the street parade were unable to secure any major sponsorship to off-set the costs of the street parade this year. The street parade was fully financed by TT with a small income being generated from float entry fees.

Band costs, equipment hire and decorations summarized the expenditure costs.

Income:	\$230
Expenditure:	\$4,625
Short fall:	\$4,395

The financing of future street parades must be reviewed to ensure that it achieves budget.

##### **Shuttle Bus**

Due to the unavailability of the Southern Highlands Community Bus as and when required, Berrima Buses were contracted by TT to undertake the private garden weekend shuttle service. This increased the cost to TT for this activity as follows:

Income:	\$679
Expenditure:	\$3,090
Shortfall:	\$2,411

##### **Corbett Gardens**

A number of negative comments have been generated in the local media in respect to the number of marquees in Corbett Gardens.

Whilst it is important that TT generates income from site rentals within Corbett Gardens it is noted that a solution be investigated to accommodate the aesthetics so as not to impinge on the visual impact of the gardens. The TT Committee the opportunity to establish some stalls outside of Corbett Gardens. There needs to be a balance to accommodate full festival duration stall holders versus special event displays such as food and wine and specialist garden show marquees.



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#### Statistics

2008	2007
26,783	33,242

#### Expenditure

Income	\$251,757.00
Expenditure	\$185,695.00
<b>Profit</b>	<b>\$66,062.00</b>

Contributions to BDI and Volunteers

Black Dog Institute – Gala Dinner profit donated by Mittagong RSL	\$6,457.00
Bowral/Mittagong Rotary/Lions Club	\$2,076.00
<b>Total Disbursements</b>	<b>\$8,533.00</b>

**NET PROFIT FOLLOWING DISBURSEMENTS** **\$57,529.00**

**NB:** Additional Fund Raising undertaken during TT

**Sydney Cycling Club** – Sydney to Bowral Ride - Additional fund raising undertaken for the BDI not included in the above figures represents approximately \$60,000.

#### MANAGEMENT PLAN ISSUES OR IMPLICATIONS

Nil

#### POLICY IMPLICATIONS

Nil.

#### BUDGET IMPLICATIONS

Surplus funds to be rolled over into general reserve for future years.

#### ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

- (i) Environmental Factors
- (ii) Social Factors
- (iii) Economic Factors

#### ATTACHMENTS

Nil.



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#### RECOMMENDATION

1. THAT a presentation of the donation to the Black Dog Institute from funds of \$6,457 raised at the Tulip Time Gala Dinner by Mittagong RSL be conducted.
  2. THAT a presentation be made to both Lions and Rotary Clubs from raffle funds raised during Tulip Time of \$2,076, and which are to be divided equally between the Clubs be conducted.
  3. THAT Council roll over any surplus monies into reserve to be available in future years.
  2. THAT Council confirm the theme chosen for Tulip Time 2009 Festival be supporting a National Children's Charity, our local focus will be raising funds for the new children's ward at Bowral & District Public Hospital.
  3. THAT WSC Parks and Property staff have been advised of the theme being "rainbow" and will design the garden beds accordingly.
  4. THAT a media release be prepared by the Executive Tourism Manager detailing event success.
- 

Barry W Paull  
**Director Corporate Services**

23 January 2009



## ORDINARY MEETING OF COUNCIL

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### REPORT OF DIRECTOR TECHNICAL SERVICES

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## TECHNICAL SERVICES DIVISION

### Environment & Sustainability

<b>o-TS1</b>	<b>Urban Filling Stations</b>
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REF:	WSM	7790/14
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To adopt a new policy "Use of Urban Filling Stations" and extinguish the existing policy "Issue and Use of Metered Standpipes".

REPORT
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### INTRODUCTION

In order to protect Council's water supply and eliminate or minimise health risks and theft of water, Council in collaboration with the Department of Water & Energy have installed three Urban Water Filling Stations to replace the metered standpipe system.

### CURRENT LOCATIONS

- Illawarra Highway and Oldbury Road, Moss Vale;
- Roadside at Chalkerville Road, Aylmerton;
- Old South Road & Kangaloon Road, Bowral.

Additional water filling stations will be installed in coming years.

### IMPLEMENTATION OF POLICY

Under the policy "Use of Urban Filling Stations" the use of metered standpipes will cease except under exceptional circumstances. This policy will not apply to emergency services.

Use of urban filling stations can be approved by completing the application form. Approved applications will be issued with a charge card to extract water from any of the filling stations. Water will be pre paid and credited to the card.

Existing standpipes will need to be returned to council and any unpaid usage will be charged. The existing "issue and use of metered standpipes" should be extinguished one month after the new policy is adopted.

Special exemptions to use metered standpipes can be requested in writing and will be subject to approval by the Manager of Water & Sewer.

POLICY IMPLICATIONS
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- Extinguish existing policy "issue and use of metered standpipes"
- Adopt new policy "use of urban filling stations"



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#### BUDGET IMPLICATIONS

NIL

#### ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

(i) Environmental Factors

The system will improve efficiency and reduce water wastage.

(ii) Social Factors

The system will protect the water supply and improve customer safety. The system will reduce disruption and dirty water issues to customers.

(iii) Economic Factors

\$15,000 funding was provided by DWE for each installation. The system will reduce the number of council assets being damaged by standpipes resulting in costly repairs and will minimise costs associated with dirty water issues caused by misuse of hydrant standpipes.

#### CONCLUSION

Implementing the "Use of Urban Filling Station" policy and extinguishing of the "Issue and Use of Metered Standpipes" policy will improve the protection of council's water supply, reduce damage to council assets, reduce disruption to customers and improve management of the system.

#### ATTACHMENTS

1. Existing policy - "Issue and Use of Metered Standpipes";
2. Proposed policy - "Use of Urban Filling Stations"
3. Photo of completed Water Filling Station at Oldbury Road.

#### RECOMMENDATION

1. THAT Issue and Use of Metered Standpipes policy be extinguished on 1 April 2009;
  2. THAT Use of Urban Filling Stations policy be adopted effective 1 March 2009.
  3. THAT the proposed application fee of \$50+GST be placed on public exhibition for a period of 28 days and be included in the 2008/09 fees and charges effective from 1 March 2009.
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**ATTACHMENT 1**

*(Existing Policy)*

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**POLICY MANUAL  
(Post 1 July 1993)**

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**SUBJECT: WATER**

**POLICY TITLE: ISSUE AND USE OF METERED STANDPIPES**

**DIVISION: ENGINEERING**

**FILE NO: 4506-101, 2210/2, 2210/3**

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**OBJECTIVE:** To minimize wastage and charge for water usage when standpipes are used to obtain water directly from hydrants for purposes other than fire fighting.

**POLICY:**

1. **USE OF STANDPIPES**
  - (a) Only metered standpipes hired from Wingecarribee Shire Council may be used for drawing water from hydrants on Council water mains. No other metered or unmetered standpipes may be used.
  - (b) Metered standpipes are owned by and will remain the property of Wingecarribee Shire Council.
  - (c) Metered standpipes must be used in accordance with Council's operating instructions.
  - (d) Fire Brigades and other emergency services are exempt from this policy.
2. **STANDPIPE HIRE**
  - (a) Application to hire a standpipe can be made at Council's Customer Service Centre.
  - (b) The annual hire term is between 1 July and 30 June each year. The standpipe must be returned each year to renew the hire agreement, for inspection and for meter reading.
  - (c) Casual hire of up to six months is available.
  - (d) To prevent excessive flow rates in Council's mains, standpipes are to be available only in 25mm and 32mm sizes.

Cont'd



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POLICY:

3. CHARGES

(a) Water Usage

The charge for water used will be at the rate for standpipe sales specified in Council's Revenue Policy.

(b) Annual Hire Charges

An annual hire charge is payable at commencement of the hire period and will be that specified in Council's Revenue Policy for each financial year.

Water usage charges are additional to these charges.

(c) Casual Hire Charges

The charge for casual hire will be that specified in Council's Revenue Policy for each financial year.

A refundable security deposit is also payable at the commencement of hire.

Water usage charges are additional to these charges.

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AUTHORISATION:

MN 171/96

DATE: 28/02/96

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**ATTACHMENT 2**

*(Proposed Policy)*

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**POLICY MANUAL  
(Post 1 July 1993)**

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**SUBJECT: WATER**

**POLICY TITLE: USE OF URBAN FILLING STATIONS**

**DIVISION: ENGINEERING**

**FILE NO:**

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**OBJECTIVE:** Protect council's assets and improve security of supply by use of centralised urban filling stations.

- POLICY:**
1. **USE OF URBAN FILLING STATIONS**
    - (a) Water carting for potable and non-potable purposes is only available for purchase at any of the "urban filling stations" located within Wingecarribee Shire Council.
    - (b) Use of standpipes on council's water supply network is prohibited unless special exemption is granted.
    - (c) Special exemptions can be requested in writing to council and will be subject to approval by Manager Water and Sewerage.
    - (d) Fire Brigades and other emergency services and council water maintenance crews are exempt from this policy.
  2. **PURCHASE OF WATER**
    - (a) Application to purchase water is made at Councils Customer Service Centre.
    - (b) If water purchased is for potable supply approval from Environment and Health Department is required.
    - (c) Approved applications will be supplied with a "usage card" and access code for the "urban filling stations"

Cont'd



## ORDINARY MEETING OF COUNCIL

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### REPORT OF DIRECTOR TECHNICAL SERVICES

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POLICY:

#### 3. CHARGES

(a) Application Fee

Application fee is payable on all applications to use "urban filling stations". Rates are specified in the revenue policy.

(b) Approval Fee

If application is made to cart water for potable supply then an approval fee is payable on application. Rates are specified in the revenue policy.

Application fee is additional to this fee.

(c) Water Usage

Water is pre purchased in Kilolitre units. The amount purchased will be credited on a "usage card". The charge rate for water will be that specified in Council's Revenue Policy.

If "usage card" is lost a \$10 card replacement fee applies. Any water credit remaining on the lost usage card will not be refunded.

#### 4. CLOSING ACCOUNTS

(a) Closing Account

Accounts can be closed with application and return of the usage card. Unused water credit remaining on the "Usage card" can be claimed as a refund.

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AUTHORISATION:

MN

DATE: 29/01/09

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**ATTACHMENT 3**





## ORDINARY MEETING OF COUNCIL

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### REPORT OF DIRECTOR TECHNICAL SERVICES

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#### Governance and Accountability

<b>o-TS2</b>	<b>Old South Road Embankment – Additional Work</b>
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REF:	RTM	6330/08.6, RD3189, RD1587
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Providing Council with a report as a result of the additional work carried out on the Old South Road embankment.

REPORT
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#### **BACKGROUND**

Council at its meeting held on Wednesday 10 December 2008 considered the matter and resolved as follows:

*THAT the report on the Old South Road Embankment – Additional Work be deferred to the Ordinary Meeting of Council to be held on Wednesday 28 January 2009.*

The report is again submitted for Council's consideration.

#### **REPORT**

This roundabout project at the intersection of Range Road and Old South Road, Mittagong was jointly funded by Council and the Roads and Traffic Authority (RTA) with a budget of \$480,000. \$380,000 came from the RTA under the federal blackspot program and \$100,000 was funded through the IRS traffic facility program. This budget allowed for the design, power utility adjustments and construction.

Council applied to the RTA to fund this project in August 2006, and was notified of successful funding in February 2007 pending design approval before 30 June 2007. Council arranged for the design to be carried out by an external design consultant and quotes were received in April 2007. Campbell & Anderson were appointed and produced the final designs which were forwarded to the RTA 26 June 2007 for approval with a project estimate of \$452,700.

Council also arranged for a geotechnical investigation to be undertaken to assist the consultant preparing the design. The investigation was carried out to provide information on the subgrade and existing pavement conditions and to provide recommendations on pavement upgrading/construction options. Deflection testing results showed that the existing pavements were deemed unsuitable and the subsequent design replaced the pavement at the intersection. No free groundwater was observed in the test bores during drilling however testing was only carried out to a depth of 1 metre. Surface and subsurface drainage was recommended to protect the pavement and subgrade and this was provided on the north eastern corner of the project.

No observation or recommendations were made by the Geotechnical consultant relating to slip potential or site instability.

The RTA accepted Councils design in November 2007 however would not increase the allocated funding of \$380,000. Quotes were sought for the power pole relocations and this work commenced in April 2008. A tender was advertised in April for the earthworks and construction of the roundabout that closed 6 May 2008. Two tendered amounts exceeded the available budget so it was determined to begin the work using Council day labour staff to not jeopardize the RTA funding. Other projects within the works program were postponed until 2008/09 financial year and additional contractors have been engaged to keep the works program on track.

Work commenced in June 2008, requiring the closure of Old South Road Closed to facilitate a safe working environment for Council Staff. The roundabout was opened to traffic in August 2008 without the final asphalt surface postponed as warmer weather was required to complete this task.

### **OVERVIEW OF THE PROJECT**

Early in the morning Saturday 6 September, during a rainfall event, a section of the road embankment immediately south of the Old South Road and Range Road intersection slumped. Initially, the back scar of the failure line had slumped approximately 150 mm. Councils' roads and traffic on-call staff were advised of the hazard and immediately closed the road to northbound traffic.

The site was monitored at regular intervals over the weekend and a geotechnical consultant inspected the site at 2 pm on Monday 8 September 2008. At the time of the inspection, the road had slumped up to 500 mm, and it was observed that seepage was still exiting the failed face, some 24 hours after the rainfall event.

The Geotechnical Consultant recommended that works commence as soon as possible to remove the subsurface moisture from the site. This was achieved with the construction of a deep rock-filled drain on the south-eastern side of the intersection.

Council's engineers then prepared a design and construction specification for the restoration project, as follows, included as Attachment 1. This works sequence was based on recommendations and observations made by the geotechnical consultant following the site visit. The schedule of works was approved by the consultant on 15 September and works commenced immediately.

During rectification works it became apparent that current design and works sequence could take some time and could prove to be hard to achieve given the complexities in accessing the site. (Constrained work area under high voltage power lines). A further site meeting was held with the geotechnical consultant, Council engineers and the project officer on 24 September to discuss an alternative treatment. These changes were recorded as site meeting notes, approved by the consultant and did expedite the works. *Refer Attachment 2.*

The reconstruction of the road embankment was completed on Monday 27 October. The embankment was compacted and tested by a locally based geotechnical consultant to the standards specified. The final asphalt surface and re-vegetation works in the form of spray grass are booked with contractors and are scheduled to be completed before the end of November.

## **POSSIBLE CAUSE OF THE EMBANKMENT FAILURE**

It is most likely that the road embankment slumped as a result of the impacts of subsurface moisture, a problem that has affected other areas of Old South Road in the past. Whilst geotechnical engineering is not an "exact" science and it is possible that there are a number of contributing factors to any embankment failure, it is widely believed that in this instance, the construction of a highly compacted road pavement and embankment has changed the natural passage of subsurface moisture and has likely redirected and possibly reactivated natural springs in the area. It is also possible that moisture entered the exposed ground surface during two prolonged rain events during construction.

A later detailed inspection with the geotechnical consultant on 24 September highlighted the general instability of the surroundings. This was highlighted when Council's construction crews constructed a ramp into the work zone and noticed cracks in the existing road embankment some 100m south of the site, well south of the roundabout construction site. The decision was made to also reconstruct this old embankment, as the potential for failure also existed here. This additional work has significantly added to the project rectification costs and the time the crews were needed on site.

The Geotechnical Consultant has commented as follows:-

*"The construction of the embankment together with the presence of springs and groundwater has most likely resulted in excess water pressures being developed within the embankment and foundation soils, which has mobilised the embankment movement."*

## **PROJECT REVIEW**

An internal review of the project has been undertaken and sound design and construction practices have been followed. The design of the roundabout was undertaken by a local consultant and a geotechnical report of the pavement conditions was commissioned. No issues were identified during the design phase that would have warranted special treatment of this site in terms of treating subsurface moisture.

The construction specification is the standard RTA earthworks specification. During the stripping of the site below ground level, there was no evidence of any subsurface moisture. Furthermore, during the construction of the embankment, there was no evidence of subsurface moisture, even though there were prolonged periods of wet weather when the site was exposed.

Council crews undertook the construction of the embankment as they have on all previous road construction projects. This process started with the grass and 'topsoil' being slashed and stripped with this material being carted away for storage at our Drapers Road storage area. The base of the embankment was then excavated to allow a roller and truck to access the area and then compacted. This base was then tested via a 'roller test' with movement under the roller observed as acceptable. The material removed from beneath the northern side of Old South Road was spread and compacted using a padfoot roller in layers within the new embankment. 'Roller testing' was carried out on each layer and movement observed as acceptable. The slope of the embankment and area behind the kerb were both increased to minimise excessive hauling of excavated material away from site. Several rain events

delayed work on the road surface and embankment during construction as work crews waited until the site had dried significantly before compacting further.

The internal project review did recommend a number of improvements to Council's work practices. These included:

- There are currently comprehensive quality procedures in Council's design and investigation process. It is proposed to enhance these such that a comprehensive site risk assessment that identifies geotechnical hazards is undertaken for all major projects.
- There was a very short lead time between approval of RTA funding and the need to expend the funds prior to the close of the financial year. Council's Design Branch did not have the resources available to design the project in-house and a consultant was engaged and the project was "fast tracked". In order to ensure an appropriate lead time, it is suggested that the design phase be funded and completed, and the project be accurately costed in the financial year prior to applying for construction funding.
- Council does not have any soil testing facilities and currently relies on consultants to do soil testing, with the associated delays and travel costs. Establishment of a basic soils laboratory and training of staff to undertake basic compaction tests will be investigated.
- Council does not have a formal record of areas where unstable ground conditions exist, and in many cases relies on local knowledge. Further investigations are needed into the feasibility of collating this information and including it as a layer on Council's Geographic Information System.

The problem with subsurface moisture was not apparent during either the investigation or construction phases of the project, and only became apparent some weeks after the partial completion of the new roundabout. If the problems were apparent during the design and construction phases, substantial subsoil drainage and special construction procedures would have been specified, at considerable additional cost to the initial project estimates.

#### BUDGET IMPLICATIONS

As mentioned previously \$380,000 was the original estimate for the construction project applied for through the RTA Blackspot program. Design consultants estimated the project to cost \$452,000 excluding the cost of design. The RTA did not offer any additional funding once the final estimate was determined.

Councillors will recall that tenders were called for this project and the lowest tender for the construction component only was in the order of \$600,000 and if design and project supervision were added to this the cost would have been over \$650,000. Accordingly Council decided to construct the project using day labour resources.

The additional work associated with the reconstruction of the road embankment has cost \$170,000. It should be noted that a portion of this additional cost would have been incurred if problems had become apparent during the design or construction phase. They are an additional cost that would have been incurred regardless of the project being constructed by day labour or contract.



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### REPORT OF DIRECTOR TECHNICAL SERVICES

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Bringing the total cost of the project to \$671,000, being \$501,000 for the roundabout and \$170,000 for the additional work.

This report recommends that the additional cost be funded from available funding held within the Section 94 Roads Sub-Plan 1 being \$206,470 at 30 June 2008. This plan has been set up to meet the demands of increased expenditure necessary to upgrade the condition of the road network. A significant portion of the rectification works were undertaken within the existing untouched section of Old South Road that was found to be deficient during excavation works.

#### ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

- (i) Environmental Factors  
The site still had sediment control devices in place to protect the natural water course from contamination as the roundabout was not completely finished.
- (ii) Social Factors  
There was a clear benefit to the community in applying for funding to address the crash rates at this location. The RTA's blackspot funding program is rigorous and projects are only funding if there are real benefits to drivers at this intersection.
- (iii) Economic Factors  
The rectification costs will be at the expense of other supplementary road works that arise throughout the financial year.

#### CONCLUSION

It is likely that the embankment of Old South Road, immediately south of the Range Road intersection, slumped due to the unpredictable movement of sub-surface moisture. The additional work associated with this embankment has cost \$170,000.

A significant proportion of these costs have been spent on the reconstructing the existing road embankment Old South Road, south of the roundabout construction area, when cracks were noticed and there was a potential for a future failure of existing road embankments in this area.

The potential problems associated with unpredictable subsurface moisture were not apparent during either the design or construction phases of the project, and only became apparent some weeks after the partial completion of the new roundabout.

#### ATTACHMENTS

1. Embankment Rehabilitation Specification – Plans 1 and 2;
2. On-site Meeting Notes
3. Amended Rehabilitation Plan
4. Borehole Log (Report on Geotechnical Investigation for Proposed Intersection Upgrade – Douglas & Partners June 2007)



## ORDINARY MEETING OF COUNCIL

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### REPORT OF DIRECTOR TECHNICAL SERVICES

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#### RECOMMENDATION

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1. THAT the additional costs of \$170,000 associated with reconstructing the embankment of Old South Rd be funded from Section 94 Roads Sub-Plan one;
  2. THAT Council staff undertake regular inspections in the vicinity of Old South Rd and Range Rd after significant rain events to observe any potential for future ground movement;
  3. THAT the establishment of a basic soils laboratory and training of staff to undertake basic compaction testing be investigated;
  4. THAT the mapping of unstable ground conditions as a layer on Council's Geographic Information System be investigated;
  5. THAT Council's quality procedures be enhanced to include detailed risk assessments for geotechnical hazards on all major projects.
-

**ATTACHMENT 1**

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**Rehabilitation of Road Embankment Failure  
Old South Road, Mittagong  
Specification**

The following work sequence has been developed following an on-site discussion with Douglas Partners, Geotechnics and Council Engineers, 8 September 2008. Reference should also be made to the attached WSC typical cross section and plan 2058.

1. Inspect Embankment failure each morning and afternoon to determine status of slump, risk to road users and construction staff and adequacy of traffic control measures.
2. Install subsoil drain through headwalls  $\frac{1}{4}$  and  $\frac{1}{3}$  to bleed drainage trenches.
3. Construct concrete surround to pit  $\frac{1}{2}$  to drain surface water into pit at kerb return KR 2
4. Construct radial slot drains behind kerb return KR 4 to bleed trapped groundwater.
5. Mark & protect all underground services.
6. Complete subsurface drainage installation as a matter of urgency to drain sub-grade adjacent to both the northern and southern sections of Old South Road on the eastern side as detailed on the attached drawing. Drain to be installed at approximate depth of 2 metres.
7. Beware of sewer rising main and gas main.
8. Under-bore Range Rd with 150 dia UPVC sewer grade pipe to connect invert of northern and southern subsurface drainage trench. Construct surcharge inlet pit on northern side where 150 dia UPVC joins subsurface drainage trench.
9. Extend existing concrete 1050 dia piped culvert outlet, 4.8 metres. Relay any existing misaligned pipes. Rock filled Gabion wire basket headwall to be constructed at a later stage.
10. Protect Telstra Pit adjacent to kerb return KR 4
11. Construct rock filled gabion wire baskets founded on stiff natural ground (100 to 200kPa). Gabion wire basket to be placed on "Bidim A34" or similar and run for entire length of reconstruction. Wire basket to be filled with 100mm to 200 mm ( $D_{50} = 150\text{mm}$ ) sound, durable, angular rock with a specific gravity of at least  $2.4 \text{ t/m}^3$ . Gabion Wire basket shall be manufactured with 2.7mm dia. Mild steel wire zinc galvanised with 5mm thick PVC coating. Progressively construct gabion wall until a maximum batter slope of 2H:1V is achieved. Note, verge width adjacent to road shall be 1.5m wide only as per design plans. Refer plans for wall height which varies
12. Gabion walls shall form the headwall over 1050 dia drainage pipe and shall provide 1000 clearance to Telstra pit.
13. Install 100 dia subsoil drains, wrapped in filter cloth, at 6 metre intervals in base of wire basket. Extend subsoil 1000 into rock drainage blanket and allow to freely drain from front of gabion wire basket. Refer detail. DO NOT CRUSH WHEN filling basket or constructing drainage blanket.

**Specification continued....**

14. Remove, dispose and reconstruct failed eastern embankment in three (3) distinct stages as shown on attached plan 2058, sheet 1 Issue B. Each stage to be approximately 24 to 30 maximum lengths.

ie DO NOT RECONSTRUCT EMBANKMENT IN A SINGLE ENTIRE OPERATION.

- a. Remove & dispose existing slumped, saturated, plastic embankment material.
  - b. Strip and dispose any topsoil material at base of proposed excavation.
  - c. Excavate toe area for a minimum width of 2 metres behind retaining wall and widened on site as directed by Design & Projects Manager
  - d. Place "Bidim A34" or similar filter cloth to base of excavation to encapsulate rock drainage blanket.
  - e. Construct compacted rock drainage blanket utilising 100mm to 200 mm ( $D_{50} = 150\text{mm}$ ) sound, durable, angular rock with a specific gravity of at least  $2.4 \text{ t/m}^3$ . Wrap rock in "Bidim A34" or similar. Rock mattress shall be a minimum of 2 metre and widened on site as directed by Design & Projects Manager. Drainage blanket shall be sloped towards Gabion wire basket at 3% slope.
  - f. Wrap both the top of the rock filled drainage blanket and the inside face of the Gabion basket with "Bidim A34" or similar filter cloth.
  - g. Construct 300mm minimum width rock filled continuous vertical chimney (cut-off) drain connected to rock filled mattress. Chimney drain to consist of 100mm to 200 mm ( $D_{50} = 150\text{mm}$ ) sound, durable, angular rock with a specific gravity of at least  $2.4 \text{ t/m}^3$ . DO NOT WRAP chimney with filter cloth. Chimney shall extend to underside of road pavement level and project horizontally where new pavement is to be constructed- refer detail. Interconnect bas of chimney to rear of drainage blanket at base of excavation. Where Chimney needs stepping, ensure minimum 5% slope to facilitate drainage.
  - h. Place and compact backfill to retaining wall utilising crushed sandstone in 250mm near HORIZONTAL layers (maximum slope 5 %) and compacted to 98% dry density ratio within 2% optimum moisture content. Final Batter slope shall be maximum 2H:1V
  - i. Each layer to be tested Level 1 conditions as specified in AS378 – 2007 ie 1 per section, per layer.
  - j. Following completion of stage 1, stage 2 shall commence. Following completion of Stage 2, Stage 3 shall commence.
  - k. Batter to be topsoiled 100 thick and vegetated on completion
15. Following completion of all batters, extend kerb & gutter to chainage 60 and install 450 dia galvanised corrugated steel half round pipes (Atlantic Civil products or similar) to connect with culvert outlet.
16. Complete roundabout construction including pavement reinstatement and final AC wearing course.

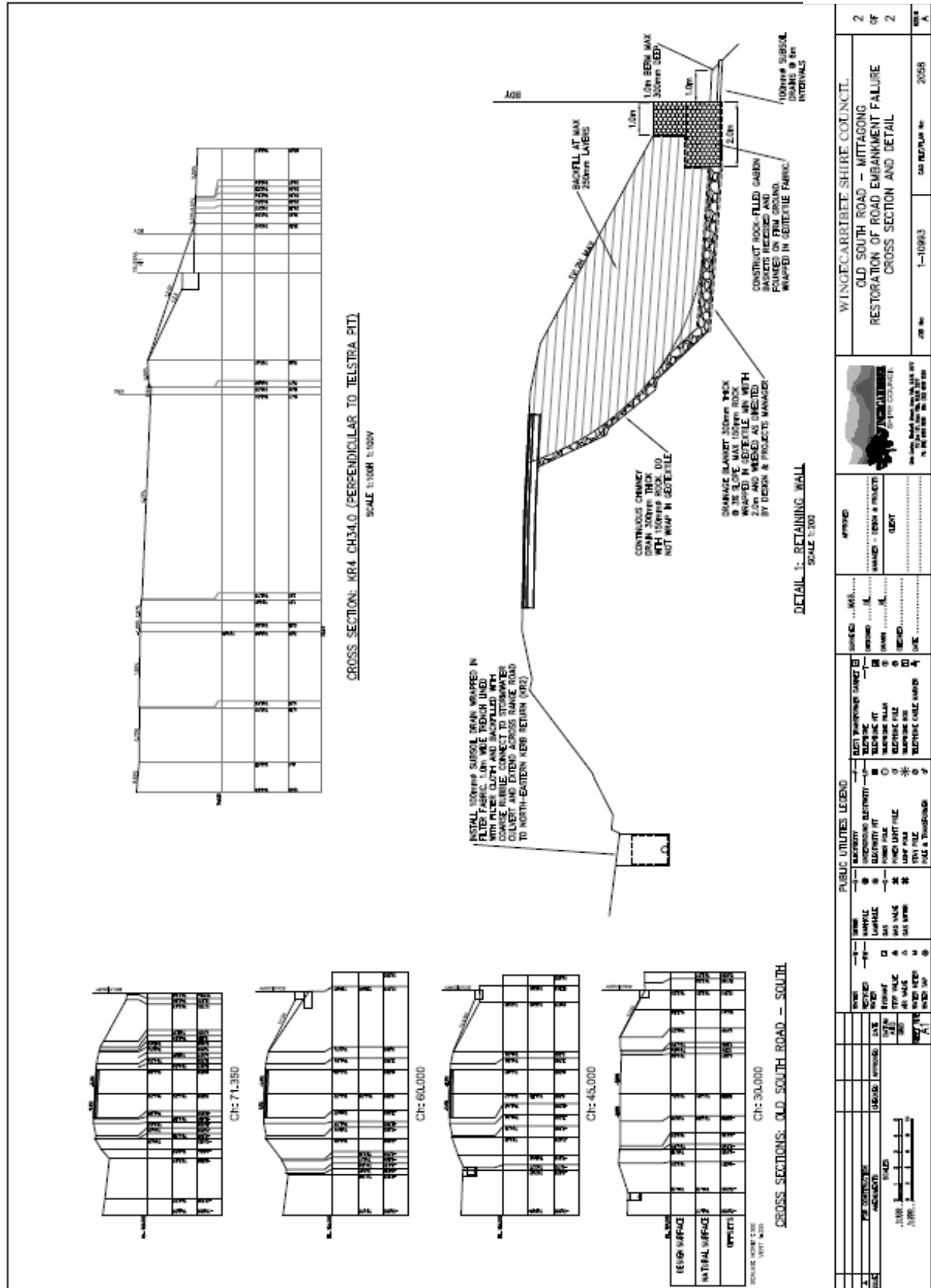
Design & Projects Manager

Dominic Lucas

Approved by Douglas & Partners, Geotechnical Consultants

15 September 2008

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WINGECARRIBEE SHIRE COUNCIL		2	2
OLD SOUTH ROAD - MITTAGONG		2	2
RESTORATION OF ROAD EMBANKMENT FAILURE		2	2
CROSS SECTION AND DETAIL		2	2
JOB No	1-10883	DATE PUBLISHED	2008
DATE	10/01/08	SCALE	A
			
APPROVED	MARKED - DESIGN & PROJECTS	DESIGNED	MARKED
CLIENT	CLIENT	DATE	DATE
PROJECT	PROJECT	SCALE	SCALE
REVISIONS	REVISIONS	DATE	DATE
NO.	DESCRIPTION	DATE	DATE
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ATTACHMENT 2

File Note

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Old South Road & Range Road Roundabout

On-Site Meeting held 24 September 2008

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Present: Douglas Partners - Arthur Castrissios  
Wingecarribee Shire Council: Michael Brearley, Mark Roebuck, Darren James  
and Don McLean

Apology: Dominic Lucas – WSC

Purpose: To review works carried out and to discuss alternative drainage treatments to  
protect the asset from further failure.

The inspection commenced on the embankment below KR4

1. Observed that water was still draining from underneath roundabout structure
2. 2m by 1m gabion baskets have been installed.
3. MR suggested a modified treatment to the continuous rock chimney for the area immediately behind the remaining kerb. The changed design would incorporate a vertical rock filled subsoil drain wrapped in filter fabric approx 600mm in width and a depth of at least 500mm below natural ground up to a point mid way up the constructed pavement. The subsoil drain is to have at least **four** turnouts that link to the toe of the bank and the gabion baskets to allow the water to drain out of the bank. Refer sketch
4. Remaining section along old south road heading south is to be as per approved design and compaction regime. The length of the sections to be installed and compacted is to be as per our ability to manage any associated risks. The existing bank south of section 1 on the plan needs to be removed and disposed. (grassy layers)
5. **Arthur from Douglas Partners agreed that this would be a way forward to address the stabilisation of the bank.**

We then went over and had a look at the installed rock filled drainage trenches and discussion took place in relation to the “zipper effect”. This is when a drain is installed following a contour that some say may cause a weakness and failure point.

Inspection took place of the test hole that has been dug within the property on the north eastern corner.

1. The hole revealed a bluey grey clay layer at a depth of ~1.3m extending down to a depth of ~3.2m. This will mean the subsoil drain is to be installed at a depth lower than the bottom of this clay layer extending up to within the top 1.3m. Then to be capped and compacted to prevent surface water infiltration.
  2. The angle of the drain is to be approximately as shown on the attached sketch.
-




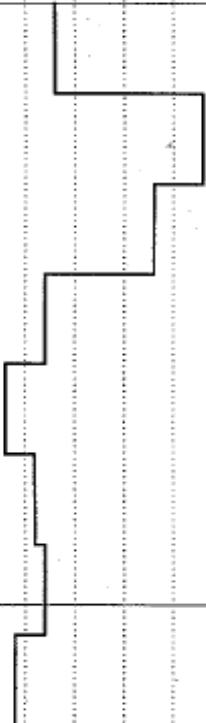
**BOREHOLE LOG**

**ATTACHMENT 4**

**CLIENT:** Wingecarribee Shire Council  
**PROJECT:** Proposed Intersection Upgrade  
**LOCATION:** Intersection of Range Road and  
Old South Road, Mittagong

**SURFACE LEVEL:** --  
**EASTING:**  
**NORTHING:**  
**DIP/AZIMUTH:** 90°/--

**BORE No:** 1  
**PROJECT No:** 40819-2  
**DATE:** 03 May 07  
**SHEET 1 OF 1**

RL	Depth (m)	Description of Strata	Graphic Log	Sampling & in Situ Testing			Water	Dynamic Penetrometer Test (blows per 150mm)
				Type	Depth	Sample		
	0.025	<b>BITUMINOUS CHIPSEAL</b> FILLING - well compacted, grey brown and grey sandy fine to medium gravel, humid (basecourse - DGB20)		B	0.03			
	0.25	FILLING - moderately to well compacted, brown, orange brown and light brown slightly clayey gravelly coarse grained sand, humid (subgrade)		B	0.28 0.3			
	1.0	Bore discontinued at 1.0m (limit of investigation)			0.6			

**RIG:** Kubota KX41-3V      **DRILLER:** Boers      **LOGGED:** Wing      **CASING:** Uncased  
**TYPE OF BORING:** 400mm spiral flight auger  
**WATER OBSERVATIONS:** No free groundwater observed       Sand Penetrometer AS1289.6.3.3  
**REMARKS:** Old South Road, South-west bound lane, Chainage 60       Cone Penetrometer AS1289.6.3.2

**SAMPLING & IN SITU TESTING LEGEND**

A Auger sample	pp Pocket penetrometer (kPa)
□ Disturbed sample	PID Photo sensitive detector
□ Bulk sample	S Standard penetration test
UL Tube sample (1.25m dia.)	PL Point load strength test (MPa)
W Water sample	V Shear Vane (kPa)
C Core drilling	W Water seep
	W Water level

CHECKED  
Initials: *Ac*  
Date: 4/07





**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

**REPORT OF DIRECTOR TECHNICAL SERVICES**

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A handwritten signature in black ink, appearing to read "M Brearley".

Michael Brearley  
**Director Technical Services**

23 January 2009



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## REPORT OF THE GENERAL MANAGER

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### COUNCIL MATTERS

#### GENERAL MANAGER'S REPORTS

##### **c-GM1      General Manager's Quarterly Report**

REF.	GM	506/1
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Submitting the General Manager's Quarterly Report to 30 September 2008.

#### REPORT

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

The General Manager's Quarterly Report to December 2008 will be circulated in March 2009.

#### ATTACHMENTS

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

#### RECOMMENDATION

THAT the information in respect of the General Manager's Quarterly Report to 30 September 2008 be received and noted.

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**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

**REPORT OF THE GENERAL MANAGER**

**c-GM2 2009 Local Government Association Conference - Tamworth**

REF.	GM	204/2009
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Reporting on the 2009 Local Government Association Conference to be held in Tamworth from 24-28 October 2009.

**REPORT**

The 2009 LGA Conference is to be held in Tamworth from 24-28 October 2009 and a determination is required as to whether Council will be represented at the 2009 Local Government Conference; and should Council determine it will be represented, then Council needs to confirm names of those attending and their respective voting status.

Council is entitled to three voting delegates, who are usually accompanied by the General Manager or his nominee.

Councillors Duncan Gair, Juliet Arkwright, David Stranger and Graham McLaughlin have indicated their interest in attending the conference.

There may be other Councillors who are interested in attending the conference, and should actual names not be able to be confirmed yet, Council does need to confirm the **number** of attendees so that accommodation bookings, etc can be confirmed.

**ATTACHMENTS**

There are no attachments to this report.

**RECOMMENDATION**

- (1) THAT Council determine whether it will be represented at the 2009 Local Government Conference in Tamworth and confirm **number** of attendees.
2. THAT should Council determine it will be represented, Council confirm its attendance at the 2009 Local Government Conference in Tamworth as follows and their respective voting status:

- |                                |                 |
|--------------------------------|-----------------|
| .....                          | Voting delegate |
| .....                          | Voting delegate |
| .....                          | Voting delegate |
| General Manager or his nominee | Observer        |



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### REPORT OF THE GENERAL MANAGER

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<b>c-GM3</b>	<b>Weekly Circulars</b>
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REF.	GM	100/8, 203/2009
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Confirming receipt of weekly circulars from the Local Government Association and Council weekly circulars.

<b>REPORT</b>
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Weekly circulars from the Local Government Association and Council weekly circulars have been received and circulated to all Councillors.

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

<b>RECOMMENDATION</b>
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THAT the information relating to Local Government Weekly Circulars Nos 01/09 and 02/09 and Council Weekly Circulars Nos 01/09 and 02/09 be noted.

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Mike Hyde  
**General Manager**

23 January 2009



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## COMMITTEE REPORTS

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### COMMITTEE REPORTS TABLED

<b>c-CR1</b>	<b>Management and Advisory Committee Reports</b>
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REF.	DCS	107/1
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Submitting minutes of four (4) Committee meetings that will be tabled for information.

REPORT
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1. Moss Vale Senior Citizens and Community Centre Management Committee Monday 15 December 2008
2. Mittagong Memorial Hall Management Committee Thursday 11 December 2008
3. Lake Alexandra Reserve Management Committee Tuesday 2 December 2008
4. East Bowral Community Centre Management Committee Tuesday 25 November 2008

ATTACHMENTS
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There are no attachments to this report.

RECOMMENDATION
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THAT the information contained in the Committee Report be noted.

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## COMMITTEE REPORTS

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### COMMITTEE REPORTS ATTACHED

<b>c-CR2</b>	<b>Finance &amp; Internal Audit Committee</b> ( <i>Refer Minutes page 102</i> )
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REF	DCS	107/22
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Submitting minutes of the Finance & Internal Committee meeting held on Wednesday, 17 December 2008.

### RECOMMENDATION

THAT recommendations FIA13/08 TO FIA14/08 as detailed in the minutes of the Finance & Internal Audit Committee meeting held on Wednesday 17 December 2008 be adopted

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**MINUTES OF THE  
FINANCE & INTERNAL AUDIT COMMITTEE**

*File No. 107/34*

held on Wednesday, 17 December 2008

The meeting commenced at 10:45 am

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**COMMENCING AT:** 10:45am

**PRESENT:** Clr J. Arkwright (Chair), Clr L. Whipper, Clr J. Clark, Clr K. Halstead,  
Clr J. Mauger, Clr D. Stranger, Clr G. McLaughlin, Clr P. Tuddenham,  
and Clr D. Gair.

**IN ATTENDANCE:** Director Corporate Services and Manager Financial Services.

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**APOLOGY**

All Councillors were in attendance so there were no apologies received.

**CONFIRMATION OF MINUTES**

There were no minutes tabled for confirmation from a previous meeting.

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**MATTERS ARISING FROM PREVIOUS MINUTES**

NIL

**DECLARATIONS OF INTEREST**

NIL

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**OPEN REPORTS**

**CORPORATE SERVICES DIVISION**

**FIA-CS1 Internal Audit Function with Council**

The Chair of the Finance and Internal Audit Committee introduced Mr Warwick Shanks (Partner, KPMG) and Mr Michael Jennett (Internal Audit Manager), who then presented a short presentation outlining KPMG's experience, details of proposed audit framework, and an outline of how specific audit tasks will be identified and prioritised.

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The Director Corporate Services sought confirmation from the committee that a report be brought back to a future meeting proposing a draft "Internal Audit Charter" for the committee's consideration.

***FIA 13/08***

The Committee on a **MOTION** moved by Clr Stranger and seconded by Clr McLaughlin  
**RECOMMENDED:**

1. **THAT** the presentation from KPMG be noted and the broad principles discussed for the conduct of internal audit processes be endorsed.
2. **THAT** a report be brought back to a future meeting of the committee providing a draft "Internal Audit Charter" which provides a comprehensive statement of the purpose, authority, responsibilities and reporting relationships of the internal audit function.

**PASSED**

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**FIA-CS2      Timeline and Project Plan – 2009/12 Management Plan**

***FIA 14/08***

The Committee on a **MOTION** moved by Clr Halstead and seconded by Clr Mauger  
**RECOMMENDED:**

**THAT** Council confirm the proposed dates and consultation steps for the 2009/12 Management Plan/Budget.

**PASSED**

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**GENERAL BUSINESS**

NIL

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There being no further business, the meeting closed at 12:05pm.

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## COMMITTEE REPORTS

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<b>c-CR3</b>	<b>Access Working Group</b> ( <i>Refer Minutes page 105</i> )
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REF	DCS	1828/3
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Submitting minutes of the Access Working Group meeting held on Monday, 15 December 2008.

<b>RECOMMENDATION</b>
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THAT recommendations as detailed in the minutes of the Access Working Group meeting held on Monday 15 December 2008 be adopted.

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**MINUTES OF THE ACCESS WORKING GROUP MEETING  
Held on Monday 15 December, 2008 in Council's Gibraltar  
Commencing at 11:05am**

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1. PRESENT:

Cr Duncan Gair (Chairperson), Cr Mauger, Cr Stranger, Bruce Mumford, Mary Pogson, Alistair MacLennan, Pamela Cormick, Jill Chauncy, Alex Traill, Rod and Dympna Irwin, Bevan Easy, Robyn Sercombe.

IN ATTENDANCE:

Jo Babb (Council's Aged and Disability Worker) and Amanda de Somer (Administration Assistant)

2. APOLOGIES:

Apologies were received and noted from Russell Leith and Jenny Fisher.

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DIRECTION OF ACCESS COMMITTEE FOR 2009:

Mayor Duncan Gair welcomed everyone to the meeting and explained that the meeting had been scheduled to discuss the direction of the Committee and to determine definite goals and purpose, whilst defining what the Committee can achieve under the reinstated status of an 'Advisory Committee'. Alistair MacLennan advised that the Access Committee needs to be aware of the support delivered from different tiers of government.

Positions on the Committee will be advertised in the Southern Highlands News on 14 January 2009 and Jo Babb will send an additional notice to Community Service contacts that she is in possession of. Jo invited the Access Committee to spread the word to Community Groups and Community members that might be interested. Jo Babb advised that she will also send all of the current members of the Access Committee a nomination form and a copy of the committee's new Terms of Reference.

The Committee agreed to retain the constitution membership of five (5) community representatives and fourteen (14) community organisations, nineteen (19) members in total.

The Mayor invited each member of the committee to input which goals and issues they believe should be dealt with next year:

- Bruce Mumford – accessible tourism locally
  - Alistair MacLennan – development applications to be submitted to the committee prior to approval
  - Robyn Sercombe – footpaths suitable for scooters
  - Bevan Easy – disability access in Mittagong, Moss Vale pedestrian crossing access, placement of ramps in new developments and obstructions on footpaths
  - Rod Irwin – address accessibility to all services and to involve the private sector
  - Alex Traill – promote awareness of legislation within Council
-



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### COMMITTEE REPORTS

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- Pamela Cormick – make letter boxes, ticket machines and ATM machines more accessible
- Jill Chauncy – accessible parking

### RECOMMENDATION

1. **THAT Council advertise for expressions of interest to nominate for the Access Committee in the Southern Highlands News commencing 14 January 2008.**
  2. **THAT additional notice be forwarded to the Community Service contacts in possession of Council.**
  3. **THAT current Access Committee members be forwarded an application form together with the committee's Terms of Reference once nominations have been finalised.**
- 

### MEETING CLOSURE:

The meeting was declared closed at 12.00 pm



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## COMMITTEE REPORTS

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<b>c-CR4</b>	<b>Minutes of the Moss Vale Livestock Selling Centre Strategic Advisory Board</b> <i>(Refer Minutes page 108)</i>
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REF.	PPM	7170/01
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Submitting minutes of the Moss Vale Livestock Selling Centre Strategic Advisory Board held 12 December 2008.

### RECOMMENDATION

THAT the recommendations as detailed in the minutes of the Moss Vale Livestock Selling Centre Strategic Advisory Board held 12 December 2008 be adopted.

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

## COMMITTEE REPORTS

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### MOSS VALE LIVESTOCK SELLING CENTRE STRATEGIC ADVISORY BOARD Report of meeting held Friday 12 December 2008 File: 7170/01

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COMMENCED: 10:10am

PRESENT: Clr Duncan Gair (Chairman)  
Clr David Stranger  
Clr Jim Mauger  
Geoffrey James  
Anthony Guinness  
Peter Bray

ALSO PRESENT: Peter Bowmer – Parks & Property Manager  
Andrew Murdoch – Saleyard Manager (10:40am)  
Tannia Andrews – Administration Officer

APOLOGIES: Mike Hyde – General Manager

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**Clr Gair opened the meeting at 10:10am**

#### **MINUTES OF THE PREVIOUS MEETING**

Amendment from “End of Year Financial Report” to “Quarterly Report” on page two of the previous minutes. It was also requested that the minutes be circulated within a week of the board meeting and sent to the Council meeting for adoption as soon as possible following approval of the board.

#### **Recommendation 1:**

THAT, with the above alteration, the minutes of the previous meeting held on the 31 October 2008 be accepted as a true and accurate record.

#### **BUSINESS ARISING**

##### Correspondence Received

- Nil

##### Correspondence Outgoing

- Phone call to Pru Goward MP to attend the MVLSC Strategic Advisory Board meeting to discuss the potential for MVLSC to become the regional selling centre however she was unable to attend.

Rural Lands Protection Board has changed their boundaries and it would therefore be beneficial to distribute another flyer through the Protection Board in order to capture a wider area. It was noted that the brochure should be updated to reflect recent changes at the Centre, including the website, prior to distribution.

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## **STATUS REPORT**

### ***Throughput Update***

The Parks & Property Manager advised that throughput figures to date are 24,490, over half the yearly budget with the two largest quarters still to come.

### ***Works Update***

The following was discussed and noted:

- Sheds completed.
- Weigh bridge to be upgraded in January 2009.
- Tree planting complete.
- No outstanding OH&S issues.
- Continue to pursue the Country Hour reporting. A list of accredited NLRs assessors was requested for the next board meeting.
- Hay cutting: a projection on fertilizing/liming costs and timeframes was requested for the next board meeting.

## **FINANCIAL REPORT**

The Parks and Property Manager ran through the financial report for the September 2008/09 quarter. Financial report reflects a strong position for the MVLSC.

Peter Bray expressed concerns that the expertise of the community representatives is not being fully utilised due to the lack of time available from the Parks & Property Manager to dedicate to the financial reports for the MVLSC.

Concerns were raised by the Board regarding the timeframe of producing minutes and financials for the MVLSC Strategic Advisory Board. Mayor to discuss the resourcing issue with the General Manager.

*Andrew Murdoch arrived at the meeting at 10:40am.*

Geoffrey James suggested that we undertake to do a timeline for next year which would include meetings and the completion and distribution of financial reports.

## **WEBSITE**

The website for the MVLSC was presented to the board and is available online at [www.mvlsc.com](http://www.mvlsc.com). Discussion was held regarding fees to be charged to include links for Agent's websites. It was decided to charge an initial fee of \$500 per annum for the provision of a link on the site for Agent's websites.

### **Recommendation 2:**

THAT a fee of \$500 per annum be initially charged for the provision of advertising and associated links on the Moss Vale Livestock Selling Centre website.

**GENERAL BUSINESS**

***Meeting held in Goulburn***

The Parks and Property Manager and Saleyard Coordinator attended a meeting held at Goulburn Soldiers Club regarding dissatisfaction with Kattle Gear and the possibility of a new regional saleyard at Goulburn. The initial proposal for the new Saleyard was that all stakeholders will be required to buy shares in the Centre and if shares are not purchased than you cannot sell at the Centre or will be required to pay a premium.

It was decided to put together a formal presentation as to why it would be unnecessary to build a new Centre in Goulburn and why the Moss Vale Livestock Selling Centre should be the regional Selling Centre. This presentation should be presented to Pru Goward MP and circulated to surrounding Councils. This project will require Council resources to complete including utilising Council's Economic Development Officer to assist in putting together the presentation.

Council's Economic Development Officer, Carl Pemberton, attended the meeting to discuss the promotion of the Moss Vale Livestock Selling Centre to become the regional selling centre. The Economic Development Officer will liaise with the Parks & Property Manager and Saleyard Coordinator to put together a presentation.

**Recommendation 3:**

THAT the MVLSC Strategic Advisory Board make a representation to Pru Goward and organise a meeting with common users of the Moss Vale Livestock Selling Centre in the catchment area for the Centre with the view to promote Moss Vale Livestock Selling Centre as the regional complex; and

THAT we request the services of Council's Economic Development Officer to structure the presentation in such a way that it can also be used for the MLA to promote Moss Vale Livestock Selling Centre as the regional centre.

***Covering Yards***

The possibility of covering the yards was again raised and discussed. It was decided to organise a computer generated picture of how the board would like the yards to look in the future including covering the yards and future upgrades.

**Meeting Closed at 12:20pm.**

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**Next meeting to be held Friday 13 February 2009.**

<i>Staff</i>	<i>Time</i>	<i>Function</i>
Parks & Property Manager	20 hrs	Attended Meeting, preparation material, correspondence
Administration Officer – Parks & Property	6 hrs	Attended Meeting, preparation, typing of minutes, correspondence

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**ORDINARY MEETING OF COUNCIL**

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on Wednesday, 28 January 2009

**COMMITTEE REPORTS**

**STATUS TABLE**

<b>Item</b>	<b>Date</b>	<b>Comment</b>	<b>Status</b>	<b>Actioned</b>
Country Hour	3 Aug 2007	Continue to pursue the possibility of Country Hour reporting from the MVLSC.	List of accredited NLRS assessors to be brought to next meeting.	Saleyard Coordinator
Advertising	7 Dec 2007	Advertise to promote improvements and higher prices obtained at Moss Vale.	Investigate hiring a Marketing consultant. Saleyard Coordinator to organise store sale advertising in the Land.	Parks & Property Manager and Anthony Guinness
Change of Sale Day Operations	31 Oct 2008	Upgrade weigh bridge to allow for outside selling	Saleyard Coordinator organising upgrade of weigh bridge	Saleyard Coordinator
Hay Cutting	12 Dec 2008		Projection on fertilizing costs and timeframes requested for next meeting.	Parks & Property Manager and Saleyard Coordinator



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 28 January 2009

### CLOSED COUNCIL

## CORPORATE SERVICES DIVISION

<b>c-CS1</b>	<b>Closed Council</b>	
REF.	DCS	107/9

To consider moving into Closed Council.

### REPORT

### BACKGROUND

The following confidential reports have been distributed separately:

c-CS1 BRIEFING ON CURRENT STATUS OF LEGAL MATTER WSC V LEHMAN  
BROTHERS AUSTRALIA 107/9, 2104

### 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*

**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
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**CLOSED COUNCIL**

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- (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.

**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.



## ORDINARY MEETING OF COUNCIL

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### CLOSED COUNCIL

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#### 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 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.

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

23 January 2009