

**CS.102 400.05
DEVELOPMENT OF A BRANCH LIBRARY AT KINCUMBER
PROGRAM: LIBRARIES**

Background

Council at its meeting on 5 June 2001 resolved that Council form a Kincumber Branch Library Building Sub Committee to report to the Library Building Committee and that Council advertise for nominations from interested persons from the Kincumber community to fill four (4) positions on the Kincumber Branch Library Building Sub Committee.

With respect to the above an advertisement was placed in the Central Coast Express Advocate on 20 June 2001 and seven (7) replies were received from the following:

Mr Kevin Wills	Member of Kincumber Community Action Group Inc;
Ms Jan Armstrong	Member of Kincumber Community Action Group Inc; Coordinator for the Kincumber Neighbourhood Watch;
Mr Gary Nelson	Member of Kincumber Community Action Group Inc;
Mr Kerry Guest	Member of Kincumber Community Action Group Inc;
Ms Margaret Hardy	Community worker on the Central Coast for 20 years; A regular library user; Experience on many committees including arts, Progress Association, Disability, High School and Council Committees; Currently President/Secretary of the Kincumber School of Arts;
Mrs Ruth Ross	Assisted husband in concrete business;
Mr Bill Evans	President of the Davistown Progress Association Inc; Vice president and general manager of Boral Bricks; Community representative of Council's COSS and Wetland Management Committees, and the Project 12 Committee.

Financial Impact Statement

The report does not impact on Council's financial position.

RECOMMENDATION

Council select four (4) members from the seven (7) nominations to be community representatives on the Kincumber Branch Library Building Sub Committee.

CS.139**PP2679****APPLICATION TO MODIFY LAND AND ENVIRONMENT COURT CONSENT FOR LOT 9 DP 801417 NAGARI ROAD SOUTH WOY WOY BEING DEVELOPMENT APPLICATION 21212/95 - APPLICANT: BRUCE KERR PTY LIMITED**

PROGRAM: LEGAL SERVICES

Introduction

Council on the 26 June 2001 resolved:

- A To instruct its Solicitors to defend the appeal.
- B To endeavour to negotiate a settlement.

Although the applicant has been informed of the Council's decision no satisfactory offer has been received.

Background

The applicant, Bruce Kerr Pty Limited, filed an application in the Land and Environment Court for the modification of the conditions of consent issued by that Court in October 1997. The appeal was against Council's refusal for a sub-division for eight (8) lots.

The applicant wants the deletion of condition of consent number 9(ii), the condition is as follows:

"Catch drains of 100 year a.r.i capacity along the rear of Lots 2,4,5,6,7 and 8 piping through the development of Council's drainage system or surcharge paths to drain the catch drains to Shoalhaven Drive of 100 year a.r.i. capacity."

The applicant has also sought the following clause amendments:

- 1 *Amend clause 8 relating to the provision of a gross pollutant trap to serve all the proposed allotments and constructed at the down slope end of the site."*
- 2 *Amend clauses 17 (a) and 18 (a) relating to the design of engineering structures by a practicing structural engineer registered to Section 3 of the National Professional Engineers Register of the Institution of Engineers Australia.*

The matter was referred to the Manager for Sub-divisions, Rod Burrough. Mr Burrough assessed the matter and reported that the condition 9 (ii) is what is generally expected of the developments of the type the applicant applied for and still relevant to the development.

Mr Staniland, an independent engineer has assessed the application of the catch drain condition for the subject lot and the following amendment application.

CS.139 CONTD

He determined that the catch drain as '***valid and good engineering practice and necessary. The concept is similar to the accepted policy of providing inter-allotment drainage to residential lots to intercept, collect and convey significant stormwater flows from upstream property and prevent impact on downstream property.***'

Mr Staniland gave expert evidence as part of the Council's team at the original sub-division appeal case.

Mr Staniland then addressed the further clause amendment and advised the following:

- 1 Amendment of condition clause 8 will result in the Gross Pollution Trap being constructed within the road reserve rather than within the development site.

Its location upon the site ensures the responsibility for maintenance and operation remains that of the property owners.

- 2 Amendment of condition clauses 17 (a) and 18 (a) will permit design and certification of structures by a structural engineer who has not or cannot prove achievement of the accepted industry benchmark of competence.

Further there is no demonstrated need to reduce the competence standard of the structural engineer. It is common practice to have engineering designs certified by a third party NPER registered engineer.

Financial Impact Statement

The cost to defend the appeal will be approximately \$30,000, as the matter will be run with the defence of the construction certificate refusal for the same site.

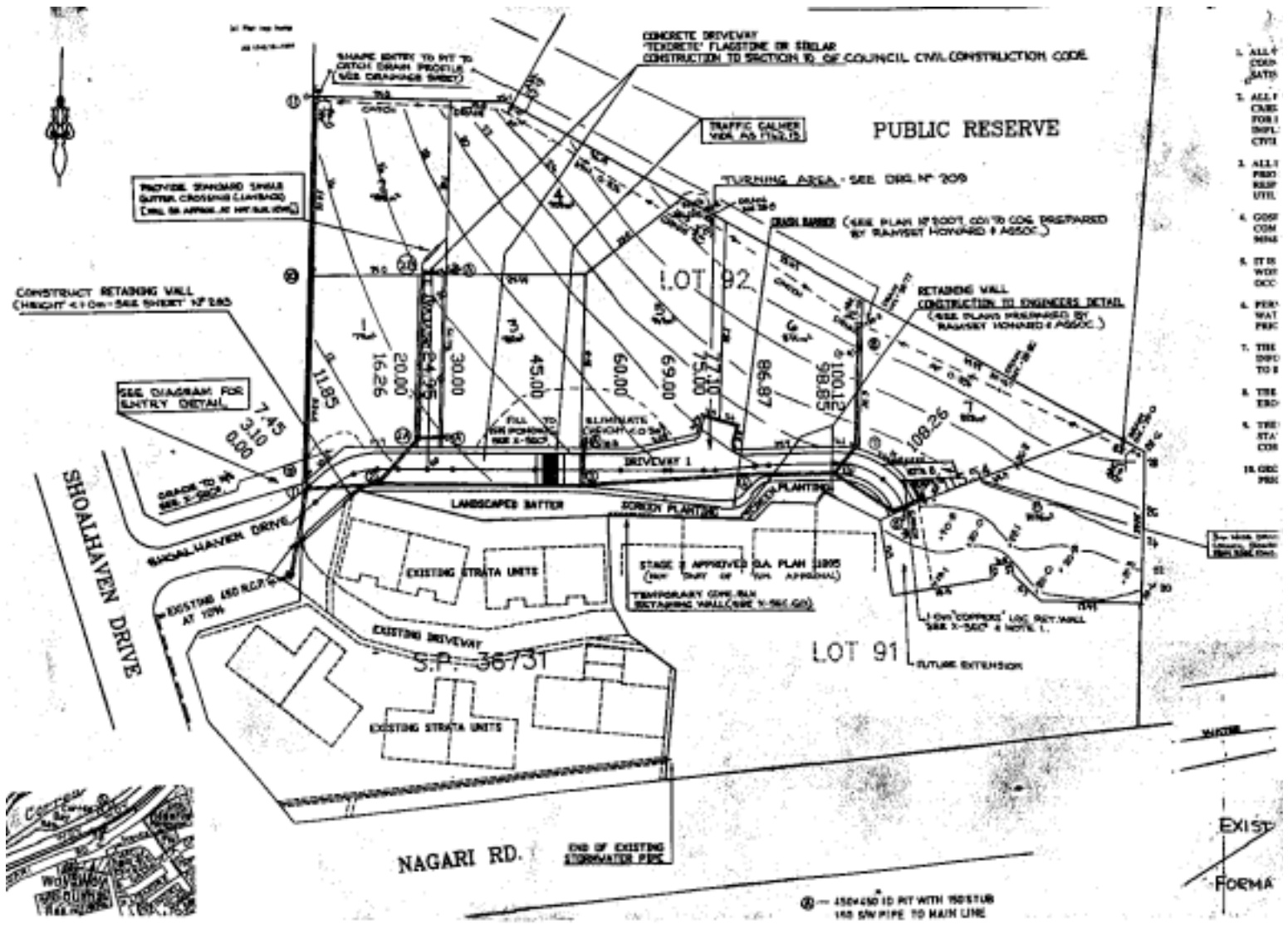
It is considered Council has no alternative other than to defend the appeal. However, Council's Solicitors have been instructed to settle the matter if at all possible.

Because this is a Class One proceeding, Council, even if successful will not be entitled to seek costs.

RECOMMENDATION

The information be noted.

ATTACHMENT TO CS.139



CS.140 **400.25 & 410.45**
THE GOSFORD FOUNDATION TRUST
PROGRAM: CORPORATE/COMMUNITY SERVICES

Introduction

Council at its meeting on 5 December 2000, when considering a long term strategy for the acquisition of environmentally sensitive lands, resolved in part: *To appoint itself as trustee (of the Gosford Foundation Trust) and advertise for expressions of interest for two (2) external trustees.*

At that time, Council considered it desirable to have additional members on the Gosford Foundation Trust.

History

A check of Council's file with respect to this matter has indicated that Council at its meeting on 20 September 1988 considered the establishment of the City of Gosford Arts Foundation and, following negotiations with the Commissioner of Taxation, a ruling was issued that donations to the Foundation would be tax deductible and that any income earned from investments and donations would be exempt from taxation.

A condition of the tax deductibility ruling was that Council be the trustee of the Foundation and establish a Board to oversee the Trust, the functions of the Board being:-

- 1 Where a donor makes a gift of cash [Clause 2.2(g)], personal property [Clause 2.3(f)], or real property [Clause 2.4(g)], and fails to nominate a specific purpose, as contained in the Schedules attached to the Deed, the Board shall recommend to Council the purpose to which the gift should be applied.
- 2 The Board will recommend to Council whether gifts of personal property [Clause 2.3(b)], or real property [Clause 2.4(b)], should be accepted by the Foundation.
- 3 Where gifts of personal property are accepted by the Foundation, the Board will recommend to Council suitable venues for the display of such gifts in accordance with Clause 2.3(c) of the Deed.
- 4 The Board will recommend to Council the location and form which public acknowledgment of donors' gifts of personal [Clause 2.3(e)] and real property [Clause 2.4(e)] should take.
- 5 In accordance with Clause 2.6 of the Deed, the Board may recommend to Council any additions, subtractions or variations to the Schedules.

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At the meeting on 20 September 1988, Council resolved:-

- A The draft Deed of Trust establishing the City of Gosford Arts Foundation be executed.
- B The Board of the City of Gosford Arts Foundation be established consisting of the Mayor (Chairman), the City Manager and other interested citizens.
- C Expressions of interest be invited from the public to become members of the Arts Foundation Board.
- D The terms of reference as outlined in the report for the operation of the Board be adopted.

Present position

It does not appear that expressions of interest were invited from the public to become members of the Arts Foundation Board. Hence the Board at this time consists of the Mayor and City (General) Manager.

From the wording of the trust, it is apparent that the Board of the Gosford Foundation Trust (as it is now known) is basically a committee making recommendations to Council.

Expressions of interest were invited from the public recently for appointment as an advisor to the Board of the Gosford Foundation and submissions were received from two people, Mr A W Evans and Mrs B Strom, and it is deemed appropriate that these two people be appointed to the Board to assist the Mayor and General Manager in making recommendations to Council with respect to disbursement of trust funds or property. (The Trust Deed permits the donation of lands to Council).

It might be noted that it has not been necessary for the Board to meet in the past as all the donations appear to have been cash and the donors actually specified as to where their donations should be allocated. Accordingly, being a member of the Board is not seen as an onerous task.

Financial Impact Statement

The recommendation does not impact upon Council's financial position.

RECOMMENDATION

- A Council appoint Mr A W Evans and Mrs B Strom as Board members to the Gosford Foundation Trust.
- B Mr A W Evans and Mrs B Strom be advised that their appointment to the Board will terminate 12 months after a general election of the Council unless the newly constituted Council reappoints them.
- C A meeting of the Gosford Foundation Trust Board be convened as required in order to make recommendations to Council.

CS.141**PP 1553****PROPOSED LEP – LOT 1 DP 707134 TO ENABLE TRANSFER TO THE ERINA HALL TRUST OF THE NEW HALL SITE AT KARALTA ROAD, ERINA PROGRAM: PROPERTY SERVICES (CS.108)****Background**

At its meeting of 24 August 1999, Council resolved in part '*All steps be taken to make available part of the Council owned land situated on the corner of Ilya Avenue and Karalta Road Erina, described as Lot 1 DP 707134, including the undertaking of any necessary further investigations, re-zoning, reclassification and subdivision*'.

Council then at its meeting 26 June 2001 resolved to "*adopt a site adjacent to the tennis courts, Corner of Ilya Avenue and Karalta Road Erina (as detailed in Attachment 1 to this report) as the new site for the Erina Public Hall.*"

Current Situation

The Lot 1 DP 707134 is currently classified as "Community" and as owner of the land, consent is required for the lodgement of any application over the land.

As an extension to the resolution of 26 June 2001, approval is sought to reclassify the land to "operational", to provide in the LEP for rezoning, enable it to be subdivided from Erina Oval and create a separate Lot of 750 m² with a separate folio identifier.

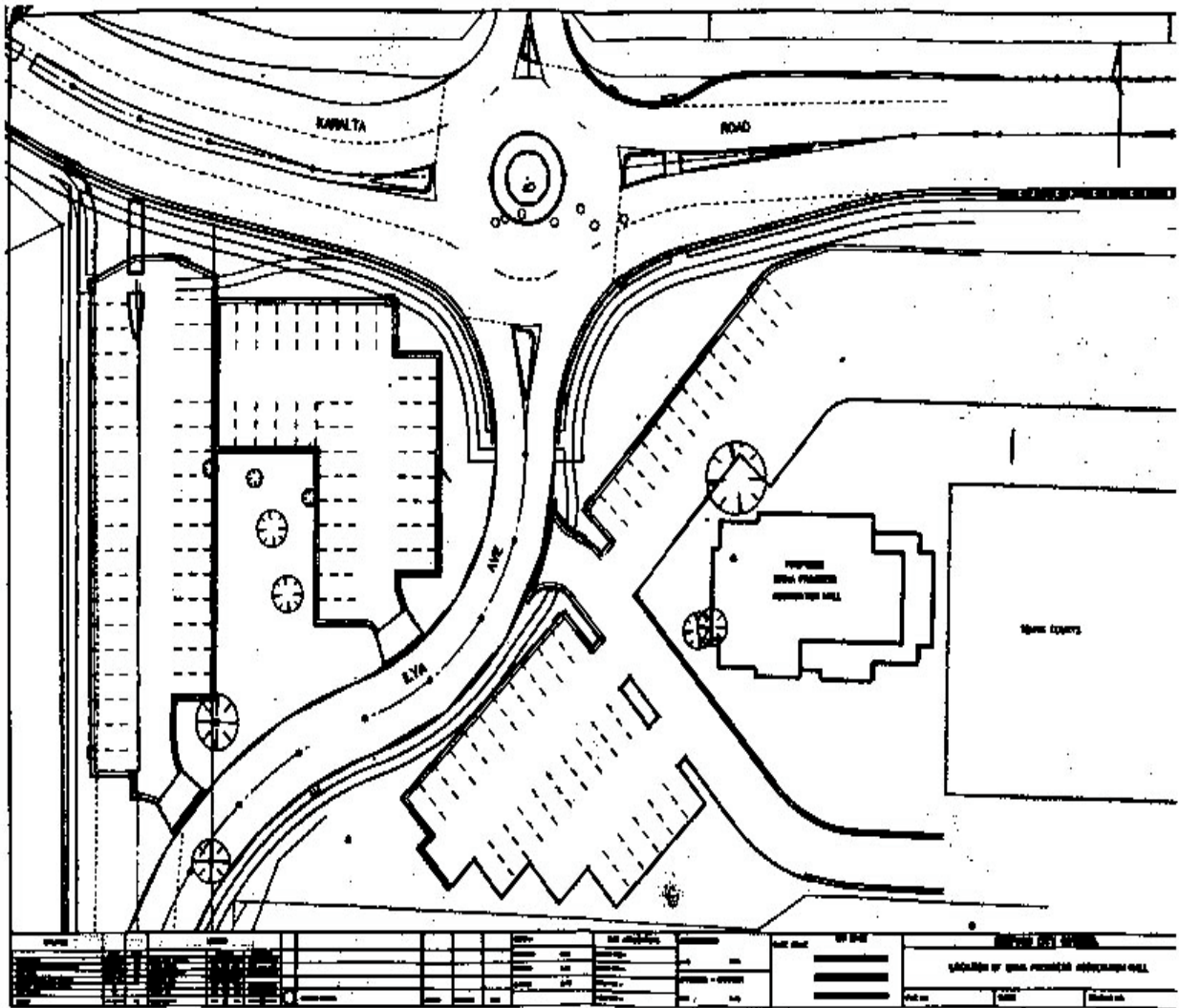
Financial Impact Statement

Cost of preparation of draft LEP is expected to be approximately \$5,000. These funds will be sourced from the sale of the current site.

RECOMMENDATION

- A Council resolve to prepare a draft Local Environmental Plan (LEP) pursuant to the Environmental Planning and Assessment Act of part Lot 1 DP 707134 Karalta Road Erina to reclassify it from "Community" to "Operational" land under the Local Government Act 1993.
- B Council transfer 750 square metres (incorrectly advised to Council as 250 square metres on 26 June 2001) of Lot 1 DP 707134 to the Trust at market value.

ATTACHMENT TO CS.141



**CS.142 477.03
METROPOLITAN PUBLIC LIBRARIES ASSOCIATION ANNUAL
CONFERENCE
PROGRAM: LIBRARY SERVICES**

Background

Gosford City Library is a member of the Metropolitan Public Libraries Association (MPLA) New South Wales. Councillor Judith Penton is the nominated Council representative for this association.

The Metropolitan Public Libraries Association's Annual Conference is being held this year at Medlow Bath on 13 and 14 September 2001 and, as Council's representative, it is recommended that Councillor Judith Penton attend the Conference.

Financial Impact Statement

Conference costs are \$355 plus accommodation for Councillor Penton to attend and these costs may be met from Account No A1001.084.

RECOMMENDATION

- A Councillor Judith Penton attend the MPLA Conference at Medlow Bath on 13 and 14 September 2001 as Council's representative.

- B Council meet the costs of Councillor Penton's attendance from Account No A1001.084.

**CS.143 DA 1999.5404
EASEMENT OVER COUNCIL LAND – ADELAIDE STREET, EAST GOSFORD
PROGRAM: LEGAL SERVICES**

Introduction

Council consent is required to create an easement to drain water over Council land. The location of the easement is indicated on the attached plan. The easement affects Lot 3 DP 397006 and Lots 6 and 7 in DP 819624.

Background

Development Consent 5404.1999, for an adjoining development, was granted on 6 January 2000 under delegation. The consent requires that stormwater be disposed of into a drainage pit. There was a similar requirement for the adjoining development.

Financial Impact Statement

The recommendation does not impact upon Council's financial position.

CS.144**36.03.00****INVESTMENT OF COUNCIL FUNDS 30 JUNE 2001****PROGRAM: FINANCE**

Clause 19 of the Local Government (Financial Management) Regulations 1993 requires the Responsible Accounting Officer of a Council to provide the Council with a written report setting out details of all money that has been invested under Section 625 of the Local Government Act 1993. The Responsible Officer must also include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the Regulations and the Council's Investment Policies.

As at 30 June 2001 Council had \$94,167,133.07 of which \$9,151,000 was in Term Deposits and \$85,016,133.07 was with Fund Managers.

The attached schedule shows Council's portfolio by financial institution and type of investment. The attached compares the following:

- 1 the UBSWA 1 month bank bill index (4.98%);
- 2 the weighted average return of all Council's in-house managed portfolio (5.12%); and
- 3 the weighted average return of all Fund Managers (5.10%).

The UBS Warburg Australia Bank Bill Index is a benchmark of performance widely used by Fund Managers.

Certificate by Responsible Accounting Officer

All investments have been placed in accordance with Council's Investment Policy, Section 625 of the Local Government Act 1993 and Regulations.

Financial Impact Statement

The Official Cash Rate as at 30 June 2001 was 5.00%. This will be monitored and, if required, the Interest on Investments Budget will be altered in a monthly budget review.

RECOMMENDATION

The information be noted.

ATTACHMENT TO CS.144

**INVESTMENT PORTFOLIO
AS AT JUNE 30 2001**

FINANCIAL INSTITUTION <u>FUND MANAGERS</u>	PORTFOLIO %	HOLDINGS	ANNUALISED RETURN		
			MONTH	FYTD*	MAT**
ANZ FUNDS M'MENT	19.30%	18,176,273.62	5.19%	6.25%	6.25%
COMMONWEALTH INVEST. M'MENT	23.68%	22,298,541.23	5.03%	6.27%	6.27%
DEUTSCHE ASSET MANAGEMENT	6.94%	6,532,310.03	4.87%	N/A	N/A
MACQUARIE DIVERSIFIED TREASURY FUN	8.73%	8,223,865.32	5.53%	N/A	N/A
NATIONAL MUTUAL FUNDS M'MENT	23.01%	21,668,652.24	5.18%	6.26%	6.26%
WESTPAC INVESTMENT M'MENT	8.62%	8,116,490.63	4.83%	5.98%	5.98%
TOTAL FUND MANAGERS	90.28%	85,016,133.07	5.10%	6.23%	6.23%
<u>OTHER FINANCIAL INSTITUTIONS</u>					
COMMONWEALTH BANK	2.12%	2,000,000.00	5.46%	6.36%	6.36%
IMB BUILDING SOCIETY	0.00%	0.00	5.14%	6.07%	6.07%
MAITLAND MUTUAL BUILDING SOC.	1.06%	1,000,000.00	5.19%	6.23%	6.23%
NSW TREASURY	6.53%	6,151,000.00	5.00%	6.25%	6.25%
TOTAL TERM DEPOSITS	9.72%	9,151,000.00	5.12%	6.26%	6.26%
TOTAL INVESTMENTS	100.00%	94,167,133.07	5.10%	6.23%	6.23%
UBSWA BANK BILL INDEX			4.96%	6.08%	6.08%

* Financial Year To Date

** Moving Annual Total