

ITEM 5

PROPOSED GRANT OF PIPELINE EASEMENTS AND CONSTRUCTION LICENCES OVER VARIOUS WOLLONGONG CITY COUNCIL PROPERTIES AND PUBLIC ROAD RESERVES

This report relates to the proposal to grant pipeline easements over various Council properties and public road reserves under Council's control.

Council received an application from Jemena Eastern Gas Pipeline (1) Pty Ltd and Jemena Eastern Gas Pipeline (2) Pty Ltd (Jemena) to acquire easements over various Council properties and public road reserves, of which Council is the roads authority, as part of a proposal to duplicate its existing Port Kembla Lateral Looping Project (the Project).

The Project will enable Jemena to increase capacity to its Eastern Gas Pipeline (EGP). The EGP is a major natural gas supply extending for 797km (822km including laterals) between gas fields in the Gippsland Basin, Victoria and major gas markets in NSW and the ACT. The EGP is owned and operated by Jemena.

An existing 6.5km length of lateral pipeline to the EGP is located between Kembla Grange and Cringila (the Port Kembla Lateral). The Project will enable Jemena to upgrade its Port Kembla Lateral pipeline capabilities to strengthen the security of gas supply for New South Wales (NSW) and the east coast gas market.

Jemena has issued Notice to Council as required under section 22(1)(a)(i) of the *Pipeline Act 1967* (the Pipeline Act) informing Council as a public authority, of its application for pipeline licence. The Pipeline Act stipulates that at least three months before the Minister determines an application submission, the public authority must be notified informing of the application for the pipeline licence. Jemena has advised it intends to submit the pipeline licence variation in June 2022.

RECOMMENDATION

- 1 Council approves the grant of Pipeline Easements ten (10) metres wide in respect of the various Council properties and public road reserves, as outlined in the Land Schedule Table in this report.
- 2 Council accept payment in the amount of \$565,034 (plus GST if applicable) from Jemena as compensation payable for the grant of the Pipeline Easements over the various Council properties and public road reserves, as outlined in the Land Schedule Table in this report.
- 3 Council grant the necessary licences and road occupation approvals for those proposed construction licensed areas outlined in the Land Schedule Table in this report and accept the payment in the amount of \$458,304 (plus GST if applicable) from Jemena as annual construction rental for the various Council properties and road reserves occupied.
- 4 The applicant be responsible for all Council's reasonable costs incurred in respect of the proposed grant of easements and construction licences, including reimbursement of Council's valuation and legal costs in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- 5 Council delegate authority to the General Manager to finalise negotiations in the proposed granting of pipeline easements and the entering into construction licences as contained in this report.
- 6 The General Manager be authorised to execute any documents to give effect to this resolution.
- 7 Approval be granted to affix the Common Seal of Council and/or delegation pursuant to Section 377 of the *Local Government Act 1993* for the required documents, including Plans and Section 88B Instruments/Transfer Granting Easements and any other documentation required to give effect to this resolution.

REPORT AUTHORISATIONS

Report of: Lucielle Power, Manager Property + Recreation
Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

- 1 Port Kembla Gas Terminal to Eastern Gas Pipeline Overview Map
- 2 Jemena Consolidated Parcel Plan of Council Properties and Public Road Reserves
- 3 Jemena Lateral Looping Project - Compensation Table Summary

BACKGROUND

Jemena intends to upgrade its existing Port Kembla Lateral pipeline capabilities to strengthen the security of gas supply for NSW and the east coast gas market. The majority of the proposed new pipeline

(the Proposed Pipeline) will be in proximity to Jemena's existing Port Kembla Lateral easement. The Proposed Pipeline will run from Jemena's existing EGP, and EGP tie in facility, located south of Jemena's mainline valve situated on Wylie Road at Kembla Grange to Australian Industrial Energy's (AIE) proposed new pipeline, to their Port Kembla Gas Terminal at Port Kembla.

The Port Kembla Lateral Looping Project involves the construction of a short, 7.8km long, buried gas pipeline. The Project will also include an upgrade to Jemena's existing Kembla Grange facility to include a metering station. The proposed Port Kembla Lateral Looping Project will connect to AIE's proposed Port Kembla Gas Terminal at Cringila and transport gas from there to local customers via Jemena's EGP. The Port Kembla Lateral Looping Project complements Jemena's efforts across northern Australia and NSW to make more gas available to Australian gas users including the 500 heavy industrial users and 33,000 NSW businesses, which rely on natural gas for their operations.

The Proposed Pipeline route traverses generally in a westerly direction through the suburbs of Unanderra, Berkeley and Kembla Grange (as shown in blue in Attachment 1) and will connect to AIE's proposed pipeline along Springhill Road (as shown in orange in Attachment 1). Council has previously resolved to grant a pipeline easement to AIE at its meeting of 6 May 2019, for a section of the pipeline that crosses Springhill Road Reserve (as shown in green in Masters Rd Inset Map in Attachment 1).

Jemena proposes to build, own and operate AIE's proposed pipeline along Springhill Road to Masters Road where it will then connect to AIE's pipeline (as shown in green in Attachment 1), traversing various properties to AIE's Port Kembla Gas Terminal.

The Proposed Pipeline alignment traverses predominantly industrial and commercial land uses between the two tie in facilities and includes:

- Major and minor roads (Princes Highway, Princes Motorway, Five Islands Road, Wylie Road, Doyle Avenue, Berkeley Road, Lathe Place, Waynote Place and Northcliffe Drive)
- South Coast Railway Line
- Council's sportsground at Ian McLennan Park
- Orana Park Reserve and Warwick Street Reserve
- Wollongong Memorial Gardens and Wollongong Lawn Cemetery
- Private residential, commercial and industrial properties located along the Proposed Pipeline alignment.

Under the terms of the *Pipelines Act 1967*, it is necessary for Jemena as a pipeline licensee to acquire a contiguous easement over the whole length of the pipeline. The easement boundaries of the pipeline define the licence area.

In December 2019, Council received an application from Jemena seeking to acquire pipeline easements over the various Council properties and council public road reserves affected by the Proposed Pipeline alignment.

The various Council properties and public road reserves are indicated in Attachment 2. The Proposed Pipeline alignment will traverse Council Operational classified land holdings (ie Wollongong Memorial Gardens and Wollongong Lawn Cemetery) and Council Community classified lands (ie Ian McLennan

Park, Orana Park Reserve and Warwick Street Reserve) and various public roads in Council's ownership and for which Council is the Roads Authority.

The Proposed Pipeline will be installed by horizontal directional drilling and underboring which is a trenchless installation and therefore has no above ground disturbance. The pipeline will be installed within the Wylie Road reserve, parallel to the paved road, by open cut and any introduction of construction activities over the easement such as the Northcliffe Drive Extension will be required to be assessed by Jemena, as Council's design is progressed.

Pipeline Marker warning signs shall also be installed as per AS 2885 which includes at road crossings.

As part of the Project Jemena will also require various construction areas to facilitate the Project, (as summarised in Attachment 2) for a period of up to 12 months. It is proposed that Council grant to Jemena construction licences over the subject Council properties affected and for works within Council's road reserves, section 138 Approvals for those public roads for which Council is the Roads Authority pursuant to the *Roads Act 1993*.

Compensation

Jemena engaged Herron Todd White (Wollongong); Certified Practising Valuers, to assess the compensation payable to Council for the Proposed Pipeline acquisition easements over the various Council properties and Council public road reserves, in accordance with the *Land Acquisition (Just Terms Compensation) Act, 1991* (the Just Terms Act). Council reviewed Jemena's offer totalling \$393,000

(ie \$200,412 compensation payable for the easements and \$192,618 annual construction rental).

Council engaged Walsh and Monaghan Pty Ltd; Certified Practising Valuers, to assess the compensation payable on its behalf, Council's counter claim total \$1,253,439 (ie \$659,439 compensation payable for the easements and \$594,000 annual construction rental). In addition, Jemena is to reimburse Council's reasonable valuation and legal costs associated with the proposed granting of easements and construction licences in accordance with the Just Terms Act.

Jemena did not agree to Council's counter claim and to amicably reach an agreement (and agree on the basis of the valuations and market evidence provided by the respective Valuers), it was agreed the Valuers would be required to meet to review the valuation disparities with the aim of reaching an agreement between the Valuers (the Valuers Agreement). The Valuers met on several occasions during May 2022.

The Valuers Agreement was received and is summarised in Attachment 3. Both parties have now reached in-principle agreement based upon the Valuers Agreement and Jemena has agreed to payment of compensation in the amount of \$565,474 (plus GST if applicable) for the various Proposed Pipeline easements and \$458,304 (plus GST if applicable) for the total site annual construction rental for the period of up to 12 months required to complete the Project. In addition, Jemena will reimburse Council's reasonable valuation and legal costs in accordance with the Just Terms Act, including:

- a. Council valuation costs to date in the sum of \$14,520 (GST Inclusive); and
- b. Council's Valuers Agreement costs of \$1,347.50 (GST Inclusive).

Jemena is planning to commence construction in October 2022 and requires the land access arrangements to be finalised for the Project so that the Pipeline Licence Variation is completed prior to construction commencing.

PROPOSAL

It is proposed that Council approve the grant of the Proposed Pipeline easements for Proposed Pipeline width of ten (10) metres wide within the Various Council properties and public road reserves as indicated in the Land Schedule Table below.

Lot Description	Property Name	Land Classification	Easement Area (ha)	Temporary Construction Area (ha)	Compensation	Construction Rental
Part Lot 104 DP 617569	Ian McLennan Park, Wyllie Rd, Kembla Grange NSW 2526	Community Land	0.13	0.3166	\$29,250	\$22,162
Easement & Construction Licence						
Part Lot 2 DP 609232	Lawn Cemetery, Wyllie Rd, Kembla Grange NSW 2526	Operational Land	0.94	3.7366	\$307,320	\$186,830
Easement & Construction Licence						
Part Lot 2 DP 569201	Lawn Cemetery Orana Pde, Kembla Grange NSW 2526	Operational Land	0	0.6368	N/A	\$31,840
Construction Licence Only						
Part Lot 114 DP 28203	Orana Park, Princes Hwy, Unanderra NSW 2526	Community Land	0.0027	0.0179	\$1,800	\$1,253
Easement & Construction Licence						
Part Lot 48 DP 261816	Warwick St Reserve, Berkeley NSW 2506	Community Land	0.1312	0.6142	\$16,400	\$42,994
Easement & Construction Licence						
Part Lot 127 DP 817646	Crematorium, 176 Berkeley Rd, Berkeley NSW 2506	Operational Land	0.2322	0.6474	\$72,960	\$45,318
Easement & Construction Licence						
Wyllie Rd Reserve	Kembla Grange NSW 2526	Public Road	0.9484	2.474	\$110,300	\$123,700
Easement & Construction						
Doyle Ave Rd Reserve	Unanderra NSW 2526	Public Road	0.0156	N/A	\$3,900	N/A
Easement Only						
Berkeley Rd Reserve	Berkeley NSW 2526	Public Road	0.023	0.0601	\$5,760	\$4,207
Easement & Construction						

Land Schedule Table						
Lot Description	Property Name	Land Classification	Easement Area (ha)	Temporary Construction Area (ha)	Compensation	Construction Rental
Lathe Place Rd Reserve	Unanderra NSW 2526	Public Road	0.0189	N/A	\$4,275	N/A
Easement Only						
Waynote PI Rd Reserve	Unanderra NSW 2526	Public Road	0.0279	N/A	\$6,975	N/A
Easement Only						
Five Islands Rd Reserve	Spring Hill NSW	Public Road	0.0436	N/A	\$3,139	N/A
Easement Only						
Princes Hwy Rd Reserve	Unanderra NSW	Classified Road TfNSW advised Council own Road Reserve	0.0394	N/A	\$2,955	N/A
Easement Only						
TOTALS					\$565,034	\$458,304

It is proposed that the terms of the easements will be negotiated with Council to ensure satisfactory maintenance obligations and risk mitigation measures are incorporated into the relevant documentation prior to execution.

CONSULTATION AND COMMUNICATION

- Project Delivery
- City Strategy –Land Use Planning
- Development Assessment and Certification – City Centre and Major Development
- Infrastructure Strategy and Planning – Transport and Civil Assets
- Walsh & Monaghan Valuers, acting on behalf of Council
- Transport for NSW; and
- Property and Recreation – Commercial Business Operations team.

There has been extensive consultation with Jemena and the various Council divisions in relation to the Project as part of Jemena's scoping and investigations for the preferred Proposed Pipeline alignment.

Extensive consultation with Council's Commercial Business Operations team in relation to Wollongong Memorial Gardens and Wollongong Lawn Cemetery was undertaken, due to the Proposed Pipeline proximity to both cemeteries and the construction licence area. In particular, to potential impacts during funeral services from noise during construction of the Project adjacent to Wollongong Lawn Cemetery, as well as the Proposed Pipeline alignment located adjacent to the Wollongong Memorial Gardens.

Jemena is currently preparing a Noise Management Plan as part of its Major Project Approval to mitigate noise implications and will engage with local residents as part of the Project. Jemena has also agreed to minimise noise during funeral services at Wollongong Lawn Cemetery. Jemena has also undertaken, as part of its Proposed Pipeline alignment, ground penetrating radar in the area adjacent to the Wollongong Memorial Gardens and as a result of its due diligence, will implement an unexpected finds process during the Project, if any finds of significance are found. Piping housed in the north eastern area of Wollongong Lawn Cemetery prior to being installed, will have minimal impact on site.

The Proposed Pipeline alignment traverses the southern boundary of the Lawn Cemetery and the reserve adjacent to the Memorial Gardens and will have minimal impact on Council's Commercial Business operations.

Council also gave Statutory Notice of the Proposed Granting of Easements and Construction Licences pursuant to the *Local Government Act 1993*, over Council's Community lands affected by the proposal, with close of submission period being 21 June 2022.

Council received four submissions in relation to its Statutory Notification of the Proposal; two enquiries from residents in Orana Parade, Unanderra and two enquiries from licensees of Ian McLennan Park. None of the submissions received objected to the proposal. Council responded to submissions providing an outline of the Project. For Ian McLennan Park, Jemena advised it intends to engage with users prior to work commencing, to avoid potential impacts on scheduled events.

Council's Project Delivery team has also been extensively involved in the negotiations with Jemena regarding the Proposed Pipeline alignment and proposed metering station at Wylie Road, in relation to Council's Northcliffe Drive extension and bridge cross over.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 Goal 5, 'We have a healthy community in a liveable city'.

It specifically delivers on core business activities as detailed in the Property Service Plan 2021-22, facilitating the management of easements and other encumbrances on Council lands.

RISK MANAGEMENT

If the parties reach an impasse in negotiations, Jemena may acquire the Proposed Pipeline easements via compulsory acquisition process, pursuant to the *Pipelines Act 1967*, with the compensation being assessed by the Valuer General in accordance with the Just Terms Act. The potential risks associated with compulsory acquisition include:

1. Compensation being determined by the Valuer General and not by agreement between the parties. The sum Jemena will be required to pay will be unknown until the Valuer General's final determination. If Council does not agree to the determination, then Council will need to commence proceedings in the Land and Environment Court.
2. The additional time and costs associated with a compulsory acquisition process may significantly delay the Project and compensation payable to Council.
3. Jemena must reimburse Council for all reasonable costs and expenses incurred in respect of the acquisition. This includes costs incurred for obtaining a valuation and legal advice. This amount will need to be paid by Jemena in addition to compensation in accordance with the *Land Acquisition (Just Terms Compensation) Act, 1991*.

FINANCIAL IMPLICATIONS

Council will receive compensation in accordance with the Just Terms Act in the amount of: -

1. \$565,034 (plus GST if applicable) for the Proposed Pipeline easements; and
2. \$458,304 (plus GST if applicable) annual construction rental for those Council properties and Council public road reserves affected by the Project.

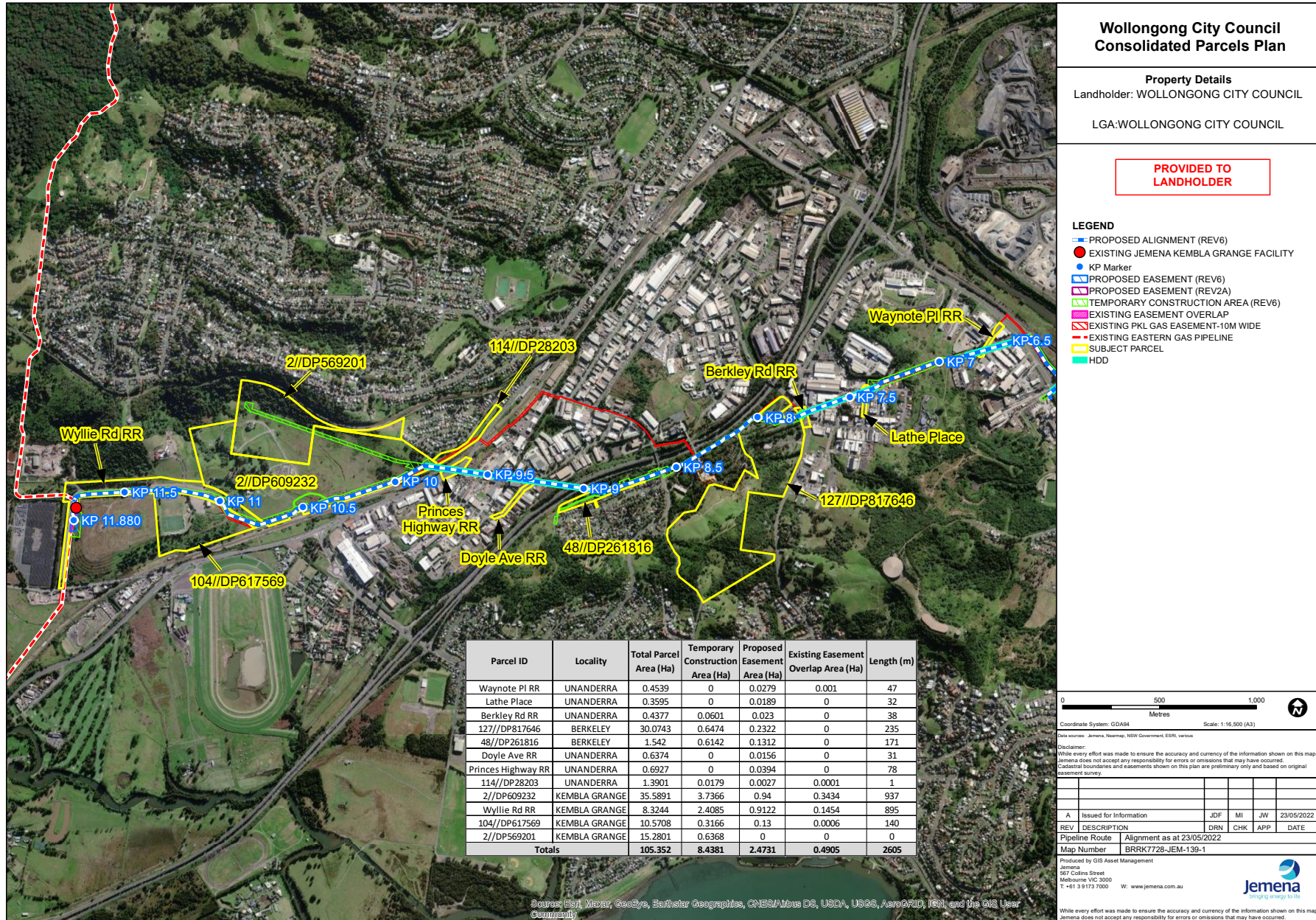
This is considered to be reasonable noting the minimal impact the easements will have on Council's properties and public road reserves. Jemena will also be responsible for all costs relating to the creation of the easements, including any GST implications (if applicable) and will also reimburse Council's valuation and legal costs associated with the granting of the Proposed Pipeline easements pursuant to the Just Terms Act, including:

- a. Council's Valuation costs in the sum of \$14,520 (GST Inclusive); and
- b. Council's Valuers Agreement costs of \$1,347.50 (GST Inclusive).

CONCLUSION

Under the terms of the *Pipelines Act 1967*, it is necessary for Jemena as a pipeline licensee to acquire a contiguous easement over the whole length of the pipeline. The easement boundaries of the pipeline define the licence area. In addition, the proposed grant of easements over Council's properties and public road reserves will enable Jemena to commence construction of its Port Kembla Lateral Looping Project, anticipated to commence in October 2022.





Final Compensation Table Summary						
Lot Description	Property Name	Land Classification	Easement Area (ha)	Temporary Construction Area (ha)	Valuer's Agreement Compensation	Valuer's Agreement Construction Rental
Part Lot 104 DP 617569 Easement & Construction Licence	Ian McLennan Park Wyllie Road KEMBLA GRANGE NSW 2526	Community Land	0.13	0.3166	\$ 29,250.00	\$ 22,162.00
Part Lot 2 DP 609232 Easement & Construction Licence	Lawn Cemetery Wyllie Road KEMBLA GRANGE NSW 2526	Operational Land	0.94	3.7366	\$ 307,320.00	\$ 186,830.00
Part Lot 2 DP 569201 Construction Licence Only	Lawn Cemetery Orana Parade KEMBLA GRANGE NSW 2526	Operational Land	0	0.6368	\$ -	\$ 31,840.00
Part Lot 114 DP 28203 Easement & Construction Licence	Orana Park Princes Highway UNANDERRA NSW 2526	Community Land	0.0027	0.0179	\$ 1,800.00	\$ 1,253.00
Part Lot 48 DP 261816 Easement & Construction Licence	Warwick Street Reserve BERKELEY NSW 2506	Community Land	0.1312	0.6142	\$ 16,400.00	\$ 42,994.00
Part Lot 127 DP 817646 Easement & Construction Licence	Crematorium 176 Berkeley Road BERKELEY NSW 2506	Operational Land	0.2322	0.6474	\$ 72,960.00	\$ 45,318.00
Wyllie Road Reserve Easement & Construction	KEMBLA GRANGE NSW 2526	Public Road	0.9484	2.474	\$ 110,300.00	\$ 123,700.00
Doyle Avenue Road Reserve Easement Only	Unanderra NSW 2526	Public Road	0.0156	0	\$ 3,900.00	\$ -
Berkeley Road Reserve Easement & Construction	Berkeley NSW 2526	Public Road	0.023	0.0601	\$ 5,760.00	\$ 4,207.00
Lathe Place Road Reserve Easement Only	Unanderra NSW 2526	Public Road	0.0189	0	\$ 4,275.00	\$ -
Waynote Place Road Reserve Easement Only	Unanderra NSW 2526	Public Road	0.0279	0	\$ 6,975.00	\$ -
Five Islands Road Reserve Easement Only	Spring Hill NSW	Public Road	0.0436	0	\$ 3,139.00	\$ -
Princes Highway Road Reserve Easement Only	Unanderra NSW	Classified Road TfNSW advised WCC own Road Reserve	0.0394	0	\$ 2,955.00	\$ -
				TOTALS	\$ 565,034.00	\$ 458,304.00

Valuers Agreement

- Wyllie Road Kemplia Grange (Lot 2 DP609232 and Lot 2 DP569201)

My assessment for the value of the easement has been reduced from \$384,000 to \$307,320 following a reduction of my englobo rate from \$100 per square metre down to \$80 per square metre.

The ground rental for this property has been agreed at \$5 per square metre per annum. Based upon the construction area of 37,366 square metres (over Lot 2 DP60232) and 6,368 square metre (over Lot 2 DP569201), this equates to a value of \$218,670 per annum.

- Wyllie Road Reserve

We have agreement on the easement at \$110,300.

We have agreed on a rate of \$5 per square metre for the construction area which, based upon an area of 24,740 square metres, equates to a value of \$123,700 per annum.

- Berkeley Road, Unanderra (Lot 127 DP817646)

Following my 20% reduction on the englobo rate at Wyllie Road, I made a similar 20% reduction in my englobo rate for this property which reduced the rate from \$120 per square metre to \$95 per square metre (rounded).

This reduced the overall compensation for the easement from \$92,000 down to \$72,960.

The ground rental of \$7 per square metre was agreed upon for the construction area which, based upon an area of 6,474 square metres equates to a value of \$45,318.

- Warwick Street Berkeley (Lot 48 DP 261816)

We have agreement for the easement at \$16,400.

We have agreement on the ground rental at \$7 per square metre per annum or \$42,994 per annum.

- Lot 104 DP 617569 Playing Fields adjoining Wyllie Road

We have agreement on the easement at \$29,250.

We have agreement on the ground rental at \$7 per square metre per annum which, based upon an area of 3,166 square metres, equates to a value of \$22,162 per annum.

Jemena : Noting that Princes Highway hasn't been incorporated into any compensation calculations to date by WCC, however HTW has undertaken an compensation assessment on the basis of 394sm Easement x \$30sm x 25% with no ground disturbance that has been calculated \$2,955.

Transport for NSW: Have confirmed that according to their records, Five Islands Road (MR295) is a Classified State Road and therefore managed by TfNSW. However, Five Islands Road is a public road and its road reserve is owned by council and council is the roads authority.