

### 3.0 SEPP 1 OBJECTION

#### General Planning Principles and Features Surrounding the Use of SEPP 1

The State Planning Policy No 1 (SEPP 1) is a document of State-Wide significance. SEPP 1 came in to force in October 1980 with the express intention of providing flexibility in application of planning controls in LEP's (development standards) where strict compliance with the standard is unreasonable or unnecessary. The most recognized aspect of the SEPP 1 is the greater flexibility of LEP controls which in turn reduce the need for council's to prepare minor draft LEP's to vary development standards.

Clause 3 of the Policy clearly identifies the aim as to provide flexibility in the application of planning controls by virtue of development standards in circumstances where strict compliance with those standards would in any particular case, be unreasonable or unnecessary and would tend to hinder the attainment of the objects of the EP&A Act 1979, Specified in Section 5(a)(i) and (ii).

These objects specified in Section 5 of the Act are set out below:

- 5(a) (i) *the proper management, development and conservation of natural and man made resources' including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and better environment.*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land.*

Since the inception of the EP&A Act in 1979 and the introduction of SEPP 1 in October 1980, a clear direction has emerged in the decision making process surrounding development, i.e. "Flexible Planning" or the "Merit Approach". The Land and Environment Court has also endorsed the approach that each case should be determined on its own merits.

With respect to the current application; one of the proposed allotments does not fully comply with the relevant development standard. As the variations are greater than 10% the Council must obtain the concurrence of the Director-General of the DoP, to vary the standards prior to granting consent.

The use of SEPP 1 in this instance highlights the inadequacies in the existing planning controls which are not conducive to the proper and preferred longer term land use, mainly in relation to sustainability and effective agricultural production potential. The Land and Environment Court (LEC) has the power to uphold a SEPP 1 objection without the concurrence of the Director General by reason of Section 39 (6) of the Land and Environment Court Act 1979.

There is no mention of the words "major" or "minor" in the SEPP No. 1. What is required of the consent authority, whether it be Council or the Court, is consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case.

The flexibility in planning, referred to in *Clause 3* of the policy, is not achieved by substituting for a development standard another inflexible rule such as the permitted variation. Therefore it does not matter what the numerical qualification on the variation sought turns out to be.

The decision of Lloyd J in the matter of *Winten Property Group Limited – v – North Sydney Council [2001] NSW LEC 46* establishes the following relevant principles which must be reviewed before a SEPP 1 Objection can be upheld:

1. That the requirement is a development standard.
2. That compliance with the underlying objective of the standard will nonetheless be achieved.
3. Consistency with the aims of SEPP 1 is maintained, particularly in regard to satisfying the objects of the Act.
4. That the objection establishes compliance with the standard is, in the circumstances, unreasonable and unnecessary.
5. That the objection is well founded.

The definition of "development standard" is found in *Section 4* of the EPA Act and is set out below in so far as it relates to *Clauses 14, 16 and 17* of the WSC LEP 1991.

*"development standards" means provision of an environmental planning instrument or regulation in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development including, but without limiting the generality of the foregoing requirements or standards in respect of:*

- (a) *the area, shape or frontage of any land, the dimension of any land, building or works, or the distance of any land, building or work, from specified point;*
- (b) *the proportion or percentage of the area of a site which a building or work may occupy;*
- (c) *the character, location, bulk, scale, shape, height, density, design or external appearance of a building or work;*
- (d) *the cubic content or floor space of a building;*
- (e) *the intensity or density of the use of any land, building or work;*
- (f) *such other matters as may be prescribed.*

The more recent decision is *Wehbe v. Pittwater Council* [2007] NSWLEC 87: A decision of Preston CJ. In this judgment, the Chief Judge does not say that *Winten* is wrong. The judgment confirms the *Winten* decision that to upholding a SEPP 1 objection is a prerequisite which must be satisfied before consideration of merit issues.

In *Wehbe* the Chief Judge examines five (5) ways of establishing that compliance is unreasonable or unnecessary which can be summarized as:

1. The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).
2. To establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
3. To establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
4. To establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable
5. To establish that 'the zoning of particular land' was 'unreasonable or inappropriate' so that 'development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land' and the 'compliance with the standard in that case would also be unreasonable or unnecessary'.

As to the fifth way; the Chief Judge stated that:

*"care needs to be taken not to expand this fifth way of establishing that compliance is unreasonable or unnecessary beyond limits. It is focused on 'particular land' and the circumstances of the case. Compliance with the development standard is unreasonable or unnecessary not because the standard is inappropriate to the zoning, but rather because the zoning of the particular land is found to be unreasonable or inappropriate. If the particular land should not have been included in the particular zone, the standard would not have applied, and the proposed development would not have had to comply with that standard. To require compliance with the standard in these circumstances would be unreasonable or unnecessary".*

The following objections, relevant to the current application reflect both judgments.

### **3.1 OBJECTION UNDER STATE ENVIRONMENTAL PLANNING POLICY No 1 DEVELOPMENT STANDARDS**

#### **(PROPOSED LOT 1)**

This objection is lodged under State Environmental Planning Policy No 1 (SEPP 1) to show that non compliance with the development standards relating to the subdivision of Lot 2 DP 929372 and Lot 32 DP 755271 Little Jilliby Road, Little Jilliby creating proposed Lot 1 as one (1) of two lots in the rural subdivision is unreasonable and unnecessary in the circumstances of the case.

#### **(1) WHAT IS THE DEVELOPMENT STANDARD**

The development standard is the subdivision provision of *Clause 14(2) of WSC LEP 1991 (as amended)*;

*"14(2) Except as provided by sub-clauses (3) and (4), a person shall not subdivide land to which this clause applies so as to create an allotment have an area less than:*

*(b) in the case of land within Zone No. 1 (a) or 7 (b) – 20 hectares,"*

This provision provides that a minimum allotment size of 20 hectares is required for any allotment created in a subdivision of land with a 1(a) – Rural Zoning.

The proposed two (2) into two (2) lot subdivision (ie boundary adjustment) will result in the creation of an allotment (proposed Lot 1) containing an area of 11.8 hectares, which represents a 41% variation to the Standard in Clause 14.2.

#### **(2) WHAT ARE THE UNDERLYING OBJECTS OR PURPOSES OF THE STANDARD**

The objects of the development standard are to support the zone objectives, which in turn are designed to complement the physical characteristics of the land. This is achieved by providing a *minimum 20 ha allotment size for a lot created in a subdivision involving land containing a 1(a) Rural Zone, recognized as being of sufficient area, capable of sustaining a dwelling and curtilage with negligible impact on the effective agricultural production potential and the surrounding environment.*

The purpose of the development standard is therefore to protect, enhance and conserve agricultural land in a manner which sustains its efficient, sustainable and effective agricultural production potential.

The objectives are to facilitate development requiring a rural or isolated location or associated with agricultural pursuits, and rural industry provided that the development is unlikely to:

- prejudice the present environmental quality of the land within this zone, or
- generate significant additional traffic, or create or increase a condition of ribbon development on any road, relative to the capacity and safety of the road, or
- prejudice the intent of the main objectives of the zone.

**(3) IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE AND UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE**

Compliance with this development standard for proposed Lot 1 is considered unreasonable and unnecessary in the circumstances of the case because the following reasons demonstrate that the objectives of the zone can be achieved in an alternate way:

- a) Proposed Lot 1 (11.8 hectares) is zoned 1(a) and contains an existing old timber cottage and metal shed in the south eastern corner of the land. The new lot would continue to be used for agricultural pursuits suited to the rural location as proposed and discussed below.
- b) The two existing lots (ie Lot 32 and Lot 2) have a combined area of 37.7 hectares. Based on the Technical Rural Evaluation Report (see Appendix B) both properties would only generate an estimated annual gross income of \$28,000 from being utilized as a beef grazing enterprise. Since the effective agricultural production potential from both lots either combined or not combined under the current use of grazing cattle and raising beef steers is not agriculturally viable, some form of intensive agriculture (ie vegetables, cut flowers, viticulture, olive growing etc) must be introduced to generate any significant income. The proposed Lot 1 contains approximately 8 hectares of land suitable for intensive cropping which could possibly return a gross income in the vicinity of \$20,000 to \$30,000. Therefore, by utilizing the area of the land in an intensive cropping form of agriculture the proposal will enhance the production potential of the land.
- c) The production potential of the land can be enhanced by intensive agriculture. The proposed Lot 1 being smaller than the other proposed Lot 2, will attract this type of rural industry. The attraction in purchasing Lot 1 for intensive agriculture will be the lower capital outlay to purchase rural zoned land compared to the more costly outlay of purchasing Lot 2. Based in the current market, the proposed Lot 1 is worth \$650,000 and proposed Lot 2 \$850,000. The \$200,000 difference in the initial outlay will enable a potential purchaser (with a similar financial record to the future purchaser of Lot 2) to afford the upfront setup cost of intensive agriculture. The resultant area of the proposed lot one (1) will enhance the effective agricultural production potential of the land.

- d) The Rural Evaluation Report advises that the proposed Lot 1 can sustain the beef agricultural production of the existing Lot 32. The sustainability of the reduction in area to the existing Lot 32 can be achieved by the means of an alternative feed method of supplementary intensive crops, such as fodder crops (ie oats, hybrid rye grass or mixtures specific to the area). The introduction of fodder crops would increase the feed from the land by up to 40% and lift the cow carry capacity to approximately 25 cows, similar to the existing Lot 32 (refer to Section 5.1 of the Agricultural Report for calculations). The report concludes that the intensive feed crops in conjunction with additional silage made from excess growth could increase the volume of beef produced off the new Lot 1 to that of similar volumes or exceed the production from the existing Lot 32 under its current management. The above demonstrates that an alternative method of farming could sustain the efficiency of production, whilst meeting the underlying objective of the development standard.
- e) Although the introduction of intensive cropping is advised for sustaining agricultural production on the smaller lot, other alternative agricultural pursuits, such as horse enterprises could be implemented and earn in excess of \$50,000 on the proposed lot area of 11.8 hectares (refer to Page 9 and Appendix E of the report).
- f) The proposal includes the subdivision of two lots into two lots (ie boundary adjustment). The reduction in the area of Lot 1 results in the increase of the proposed Lot 2. The proposed Lot 2 will increase from 16.83 hectares to 25.88 hectares. The evaluation Report states that the new Lot 2 would sustain a similar level of production to that of existing Lot 32, new Lot 2 would need an alternative enterprise to generate substantial income from the land. As a result of the proposal, the new Lot 2 meets the development standard and the underlying objectives.
- g) The proposed future Lot 1 being 11.8 hectares is consistent with other land holdings in the immediate locality containing the same land use zone and similar area, for example;
- Lot 222 DP 710526 being 12.58 ha
  - Lot 2 DP 806729 being 4.36 ha
  - Lot 12 DP 618001 being 1.15 ha
  - Lot 109 DP 661854 being 9.41 ha

Refer to Appendix A for an overall cadastral plan and areas. The area and shape of proposed Lot 1 is identical to the existing Lot 222 DP 710526 which adjoins the proposal. The northern boundary of Lot 222 is the centerline of Little Jilliby Creek which is similar to our proposal.

The abovementioned adjoining parcels were all created prior to the Wyong LEP 1991 coming in to force, however, the following two developments were assessed more recently and both approvals by Council have virtually abandoned the Development Standard of Clause 14(2) for 1(a) Rural Zoned Land under the LEP 1991.

- Lots 100 (1.07ha) and 101 (12.45ha) DP 1105936 being a two (2) into two (2) lot subdivision of Lots 10 (7.1ha) and 11 (6.42ha) in DP 258175 (DA 3145/2004).
- Lot 11(1ha) and Lot 12 (22.03ha) in DP 1124611 being a two (2) into two (2) lot subdivision of Lot 1 (9.73ha) DP 626991 and Lot 2 (13.3ha) DP 225706 (DA 339/2006),

In both of the above approved applications and completed subdivisions a variation of up to 95% was permitted by Council to the Development Standard 14(2) – 20ha minimum (refer to Appendix A for the above plans).

- h) The development will not impact the present environmental quality of the land (refer to Appendix C for Ecological Report).
- i) The proposal for the two (2) lot into two (2) lot subdivision (ie Boundary Adjustment) will not generate any significant additional traffic to Little Jiliby Road.
- j) The current proposal offers an alternative means of achieving the objectives and therefore strict compliance with the Standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

The reasons set out above show that strict compliance with the Development Standard of the minimum area requirement of 20 hectares for the creation of a lot in a subdivision of 1(a) Rural Land is unnecessary to achieve the objectives of the planning control and it would therefore be unreasonable to require compliance.

Strict compliance with the Development Standard is inconsistent with the aims of SEPP 1, which is to provide flexibility in the application of planning controls in circumstances where strict compliance with the standard would, in any particular case, be unreasonable or unnecessary. It would also tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979, which provide, relatively:

- (i) *the proper management, development and conservation of natural and man made resources' including agricultural land, natural areas, forest, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land.*

#### **4.0 CONCLUSION**

The proposed development is a two (2) into two (2) lot subdivision of Lot 32 DP 755271 and Lot 2 DP 929372 (ie boundary adjustment) that aims to rectify the existing land locked arrangement of Lot 2 and generate two usable lots for rural agricultural activities.

The smaller Lot 1 at 11.8 hectares will allow the opportunity for some form of intensive agriculture to produce a substantial return from the land, whilst the larger Lot 2 will gain in area and should become more viable as an agricultural enterprise.

The larger vacant Lot 2 can achieve a building envelope, effluent area and access. The smaller Lot 1 will utilize the old existing cottage and sheds.

We believe that the proposal does not contravene the objectives of the Rural Zone. The underlying intentions of the zone can be achieved as demonstrated in the SEPP 1 Objection.

We recommend the revised proposal to Council and are of the opinion that there are no adverse environmental or economical effects.







NOTE: DIMENSIONS AND AREAS ARE SUBJECT TO FINAL SURVEY  
 1(a) - RURAL AGRICULTURAL

APPROXIMATE NORTH (M.M.)

**PROPOSED  
 LOT 2**  
 25.88ha (EX. ROAD)  
 1(a)

CREEK

JILLIBY

LITTLE

**PROP'D  
 LOT 1**  
 11.8ha  
 1(a)

40  
 BUILDING  
 ENVELOPE  
 (Indicative ONLY)

EXISTING  
 VEGETATION

EXISTING  
 VEGETATION

NOTE: ONLY TREES LARGER THAN 500mm  
 IN DIAMETER HAVE BEEN LOCATED ON  
 SITE. OTHER SMALLER MELALEUCA TREES  
 ARE PRESENT INSIDE THE BOUNDS OF  
 THE EDGE OF VEGETATION.

Δ B.M. (NAIL IN POST)  
 R.L. 21.12 A.H.D.  
 ORIGIN OF LEVELS:  
 S.L. 60/824 A.H.D.  
 R.L. 60/824 A.H.D.

LOT 1  
 D.P. 929372

**WARNING NOTES:**  
 1. THE PURPOSE OF THE FIELD SURVEY DEPICTED  
 HEREON WAS TO LOCATE DETAIL, VISIBLE  
 SERVICES, TREES, SPOT LEVELS, ETC., ALL IN THEIR  
 APPROXIMATE RELATIONSHIP TO BOUNDARIES. THE  
 BOUNDARIES SHOWN HEREON HAVE BEEN PLOTTED  
 FROM THE DATA OBTAINED FROM THE FIELD SURVEY.  
 FIELD SURVEY OF BOUNDARIES HAS BEEN  
 CARRIED OUT BY US AT THIS STAGE. THIS NOTE IS  
 AN INTEGRAL PART OF THIS PLAN.  
 2. THE RELATIONSHIP OF IMPROVEMENTS TO  
 BOUNDARIES IS APPROXIMATE ONLY. OFFSETS  
 FROM BOUNDARIES TO SERVICES, TREES, ETC., ARE  
 CONSIDERED BY FURTHER SURVEY PRIOR TO ANY  
 CONSTRUCTION, OR IF THEY ARE CRITICAL TO THE  
 PLANNING STAGE, DO NOT SCALE OFFSETS FROM  
 THE PLAN OR CAD MODEL WITHOUT CONFIRMATION  
 FROM THE REGISTERED SURVEYOR.  
 3. THIS PLAN IS NOT TO BE USED FOR  
 CONVEYANCING PURPOSES.

**PROJECT**  
 SMITH  
 LOT 2, D.P. 929372  
 & LOT 32, D.P. 755271  
 LITTLE JILLIBY ROAD  
 JILLIBY

**SHEET 3 / 4**  
 PLAN SHOWING  
 DETAIL OVER PART  
 OF PROPOSED LOT 2  
 (Building Envelope)

Scale: 1:1000  
 Datum: A.H.D.  
 Reference: 17104  
 Drawn: DB  
 Checked: BE  
 Date: 15/02/10

**Everitt & Everitt**  
 Consulting Surveyors  
 "The Helton Rivers Business Centre"  
 34-36 Pacific Highway Wyong  
 PO Box 198 Wyong NSW 2259  
 Telephone: (02) 4352 1419  
 Fax: (02) 43512437  
 E-mail: admin@everittsurveyors.com.au

Engineering Design  
 Project Management  
**E&E**  
 Surveying  
 Planning

**WYONG SHIRE COUNCIL**

**MINUTES OF THE  
GOSFORD / WYONG COUNCILS' WATER AUTHORITY BOARD  
MEETING OF COUNCIL**  
HELD AT GOSFORD CITY COUNCIL,  
ON 18 AUGUST 2010  
COMMENCING AT 9.09 AM

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**PRESENT:**

CR HOLSTEIN\*

CHAIRPERSON

**GOSFORD**

CR MAHER\*

**WYONG**

CR SYMINGTON\*(in attendance via phonelink)

MR P WILSON\*

MR B KOIZUMI-SMITH\*

MR M WHITTAKER\*

MR P WISE\*

MR G MCDONALD

**GOSFORD CITY COUNCIL STAFF**

MS P MCCANN (arrived at 9.14am)

MR N SLADE

MS M LOW

**WYONG SHIRE COUNCIL STAFF**

MS R REDMOND

MS J ELVIDGE

\* *BOARD MEMBERS WITH VOTING RIGHTS AT THIS MEETING.*

**AUTHORITY STAFF**

MR G CASEMENT

MR B BAKER

**APOLOGIES**

MR R WILLIAMS

CR LATELLA

CR GRAHAM

CR MATTHEWS

CR VINCENT

**1.1 Disclosure of Interest**

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***RESOLVED unanimously on the motion of Cr Holstein and seconded by Mr Whittaker:***

***That the Board receive the report on Disclosures of Interest and the fact that no disclosure was made be noted.***

FOR: Cr Holstein, Cr Maher, Mr Koizumi-Smith, Cr Symington, Mr Whittaker,  
Mr Wilson, Mr Wise

AGAINST: NIL

**1.2 Confirmation of Minutes of Previous Meeting**

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***RESOLVED unanimously on the motion of Mr Whittaker and seconded by Cr Maher:***

***That the Board confirm the minutes of the previous Gosford/Wyong Councils' Water Authority Board meeting held on 19 May 2010.***

FOR: Cr Holstein, Cr Maher, Mr Koizumi-Smith, Cr Symington, Mr Whittaker,  
Mr Wilson, Mr Wise

AGAINST: NIL

**BUSINESS ARISING FROM THE MINUTES**

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

**2.1 Toukley Desalination Plant**

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Pam McCann arrived at 9.14am during discussion on this item.

***Resolved unanimously on the motion of Mr Wilson and seconded by Cr Holstein:***

***That the Board note the information and recommend to the two Councils:***

- 1 That a budget of \$530,000 be approved to undertake the pre construction consent conditions and physical commencement of the desalination project to preserve the Development Approval.***
- 2 That Wyong Shire Council expedite the investigation and design activities at the Toukley desalination site in accordance with the Contaminated Lands Management Act to enable site works to commence prior to June 2012.***
- 3 That full briefings be given to both Councils prior to the Minutes of the Water Authority Board being brought back for consideration by both Councils.***
- 4 That the two Councils note that the Water Plan 2050 identifies desalination as one of the potential future supplies, if climate change or other issues necessitates the development of additional supplies, in the future and would be initiated as a last resort.***
- 5 That a joint media statement be prepared for consideration by both Councils.***

FOR: Cr Holstein, Cr Maher, Mr Koizumi-Smith, Cr Symington, Mr Whittaker,  
Mr Wilson, Mr Wise

AGAINST: NIL

**2.2 Project Report - Update on Capital Works**

**RESOLVED unanimously on the motion of Mr Whittaker and seconded by Mr Wilson :**

**That the Board note the information and endorse the budget increase of \$1,100,000 for the construction of the Gosford Distribution Works for the Mardi High Lift Pump Station for a total budget of \$1,520,000.**

<b>Item</b>	<b>Pre construction</b>	<b>Construction</b>	<b>Total</b>
<b>Preconstruction activities</b>	<b>\$420,000</b>		<b>\$420,000</b>
<b>Ourimbah Pump Station mechanical electrical refit</b>		<b>\$500,000</b>	<b>\$500,000</b>
<b>Ancillary works including; reservoir inlet modifications, new valves and automation of manual valves</b>		<b>\$600,000</b>	<b>\$600,000</b>
<b>Total</b>		<b>\$1,100,000</b>	<b>\$1,520,000</b>

FOR: Cr Holstein, Cr Maher, Mr Koizumi-Smith, Cr Symington, Mr Whittaker, Mr Wilson, Mr Wise

AGAINST: NIL

**2.3 Hunter Water Transfers**

**RESOLVED unanimously on the motion of Mr Wilson and seconded by Mr Whittaker:**

**That the Board receive the report on Hunter Transfers and note that a draft revised restriction guideline with corresponding operating rules will be presented to the November Board meeting.**

FOR: Cr Holstein, Cr Maher, Mr Koizumi-Smith, Cr Symington, Mr Whittaker, Mr Wilson, Mr Wise

AGAINST: NIL

**3.1 Information Reports**

**RESOLVED unanimously on the motion of Mr Whittaker and seconded by Cr Maher:**

**That the Information Reports be resolved individually.**

FOR: Cr Holstein, Cr Maher, Mr Koizumi-Smith, Cr Symington, Mr Whittaker, Mr Wilson, Mr Wise

AGAINST: NIL

**3.2 Mardi to Mangrove Link Project Status**

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***RESOLVED unanimously on the motion of Mr Whittaker and seconded by Cr Maher:***

***That the Board receive the report on Mardi to Mangrove Link Project Status.***

FOR: Cr Holstein, Cr Maher, Mr Koizumi-Smith, Cr Symington, Mr Whittaker,  
Mr Wilson, Mr Wise

AGAINST: NIL

**3.3 Regular Information Report**

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***RESOLVED unanimously on the motion of Mr Whittaker and seconded by Cr Maher:***

***That the Board receive the report on Regular Information Report.***

FOR: Cr Holstein, Cr Maher, Mr Koizumi-Smith, Cr Symington, Mr Whittaker,  
Mr Wilson, Mr Wise

AGAINST: NIL

**3.4 Communications Update**

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***RESOLVED unanimously on the motion of Mr Whittaker and seconded by Cr Maher:***

***That the Board receive the report on Communications Update.***

FOR: Cr Holstein, Cr Maher, Mr Koizumi-Smith, Cr Symington, Mr Whittaker,  
Mr Wilson, Mr Wise

AGAINST: NIL



**3.5 Budget and Financial Summary**

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**RESOLVED unanimously on the motion of Mr Whittaker and seconded by Cr Maher:**

**That the Board receive the report on Budget and Financial Summary.**

FOR: Cr Holstein, Cr Maher, Mr Koizumi-Smith, Cr Symington, Mr Whittaker,  
Mr Wilson, Mr Wise

AGAINST: NIL

**GENERAL BUSINESS****Tabling of the GWCWA Submission regarding Wallarah 2 Coal Project**

Garry Casement tabled the GWCWA submission made regarding the Wallarah 2 Coal Project Environmental Assessment Report for the Board members information.

**Legislative Changes regarding the formation of the Central Coast Water Corporation**

Mr Whittaker requested that a status report regarding the formation of the Water Corporation and the legislative changes be given to the Board.

Greg McDonald advised that the Minister for Water and both Mayors signed the Memorandum of Understanding (MOU) last week. Cabinet has since requested a further legislative change which will mean that the new Corporation can be levied for the Climate Change Fund.

This change does not require amendment of the Central Coast Water Corporation Act but will require the schedule in the Energy and Utilities Administration Act to now include the Central Coast Water Corporation so that the levy can be applied. Mr Whittaker advised that when the Central Coast Water Corporation gets added to the list of corporations to be levied care should be taken to ensure that both Wyong and Gosford Council are removed from the list. Greg further advised that a legal expert has been appointed and will be part of the team reviewing the amending legislation when it comes through in draft form this week.

Mr Whittaker requested that when any legal opinion around the amendments is received, this should be circulated to the Board members as soon as possible.

**THE MEETING** terminated at 9.53am.

18 August 2010

Director's Report

To the Gosford / Wyong Councils' Water Authority  
Board Meeting

Technical Advisory Group Report

## 2.1 Toukley Desalination Plant

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TRIM REFERENCE: F2004/06808 - D02307935

AUTHOR: GC

### SUMMARY

This Report provides advice in relation to the commencement of physical works for the Toukley Desalination Plant.

### RECOMMENDATION

*That he Board note the information and recommend to the two Councils:*

- 1 That a budget of \$530,000 be approved to undertake the pre construction consent conditions and physical commencement of the desalination project to preserve the Development Approval.*
- 2 That Wyong Shire Council expedite the investigation and design activities at the Toukley desalination site in accordance with the Contaminated Lands Management Act to enable site works to commence prior to June 2012.*

## BACKGROUND

At the Board meeting held on 21 February 2007, the Board in relation to the proposed 20 ML/d desalination plant at Toukley resolved:-

*That the Board note the information and recommend to Wyong Shire Council the:*

1. *acceptance of the DOP Development Consent conditions for the proposed 20 ML/d desalination plant to be located adjacent to the Toukley Sewage Treatment Plant. (copy of conditions on file)*

Wyong Shire Council Subsequently accepted the Consent conditions on 28<sup>th</sup> February 2007.

With the easing of drought conditions in mid 2007, commissioning of an expanded Hunter Link (average transfer capacity of 33 ML/d subject to Hunter storage levels) and adoption of WaterPlan 2050, the Desalination Plant has not undergone any development beyond obtaining the development consent. To date \$2.2 M has been invested in the concept development and Development Approval for the project and took approximately 3 years to undertake.

The Notice of Determination dated 6 July 2007 states that if the applicant has not physically commenced work permitted by the consent within 5 years of the consent becoming operative the consent will lapse.

WaterPlan 2050 identifies desalination as one of the potential future supplies along with Tillegra Dam and indirect potable reuse if climate change or other issues necessitates the development of additional supplies in the future.

During the recent drought all viable short to medium term contingency projects were undertaken. Planning for desalination at Toukley was undertaken but due to the construction of the Hunter Link, timing of the development approval and climatic conditions it was not constructed. In the event of a future drought outside the design criteria for the water supply necessitating a contingency supply, desalination would potentially be an appropriate solution. Preservation of the current development approval for desalination at Toukley would be a valuable asset.

To preserve the development consent, physical works need to commence before July 2012.

## REPORT

### Impact of EP&A Amendment (Development Consents) Act 2010

On May 2010 the Environmental Planning and Assessment Amendment (Development Consents) Act 2010 (Amendment Act) came into force. The Amendment Act was introduced to assist developers who are having difficulty in the wake of the global financial crisis commencing approved projects before consent periods lapse. The Amendment Act provides for all development consents granted with a consent period less than 5 years which were in force on 22 April 2010 to be automatically extended to hold a five year consent period.

As the desalination scheme already holds a 5 year consent period the Amendment Act does not extend the time in which the project is required to commence.

### Consent Conditions

The consent conditions include a number of significant activities that are required to be undertaken prior to construction (physical works). These are summarised below in Table 1.

Table 1 Pre construction consent conditions.

Condition No.	Condition
	<b>Utilities and Services</b>
1.7	Identify all affected public utility services likely to be affected by

	proposal
1.8	Consult affected utility providers
1.9	Provide documentary evidence to the Director General (NSW Department of Planning) that the service providers requirements have been met.
	<b>Compliance</b>
1.12	Certify in writing to the satisfaction of the Director General that all conditions applicable prior to commencement of construction have been complied with
	<b>Development Design Requirements</b>
2.1	Certify to the satisfaction of the Director-General that the relevant requirements of Development Control Plan No. 67 – Engineering Requirements for Development will be met.
2.2	Demonstrate to satisfaction of the Director-General that a Certificate Compliance under the water Management Act 2000 for water and sewer requirements has been obtained.
	<b>Dune and Beach Management</b>
2.5	Install visible barriers to prevent unauthorised access to the construction area on Lakes Beach.
2.6	Provide visible signage top barriers referred to in 2.5. This is to include signage detailing construction details such as contact number for public enquiries
	<b>Stockpiled Materials</b>
2.23	Undertake representative sampling and testing of materials stockpiled on site and classify material. Then remove materials to a waste management facility.
2.27	Consult with the RTA in relation to raw water main, document agreement and provide copy to the Director General.
	<b>Groundwater Monitoring</b>
3.3	Develop a groundwater monitoring program to monitor the effects of seawater intake on local groundwater flows. Monitoring program to be submitted for approval of Director-General prior to construction or within such period as agreed by the Director General.
	<b>Complaints Procedure</b>
4.2	Develop Complaints Procedure
4.3	Develop and manage a complaints register
	<b>Environmental Representative</b>
5.1	Nominate a Environmental Representative for approval by the Director General.
	<b>Construction Environmental Management Plan</b>
5.2	Prepare and submit for the approval of the Director-General a Construction and Environmental Management Plan consistent with the <i>Guideline for the Preparation of Environmental Management Plans (DIPNR 2004)</i>
	<b>Annual Performance Reporting.</b>
6.1	Submit an Annual Environmental Management Report (AEMR) for the life of the development.

A copy of the conditions of consent are provided in Attachment 2

#### Discussion

Planning and legal advice has been obtained on the necessary level of activity that would constitute physical commencement of the project.

The advice highlighted the need to ensure that any commencement activities are undertaken in a lawful manner citing numerous activities specified in the consent conditions that are to be undertaken prior to construction.

It is considered prudent to retain the desalination project at Toukley as a drought contingency or future supply source if required. Given the current water supply situation additional supplies are not currently required, though this situation could change requiring the expeditious provision of desalinated water.

Constructing the desalination project in a phased manner would provide the local community significant benefits in terms of cost, water supply risk and environmental impact.

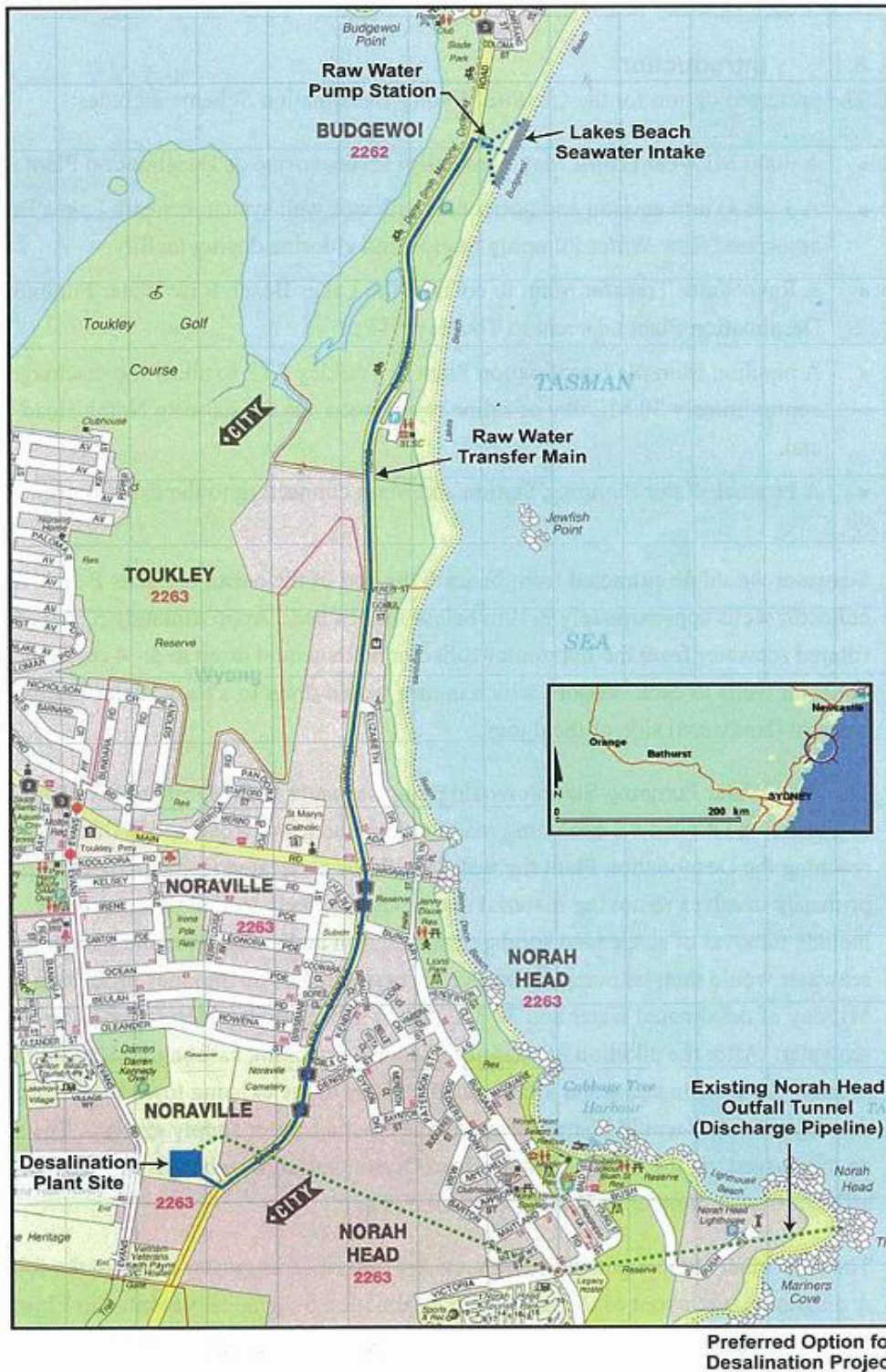
This could be achievable if the high cost components could be deferred until the water supply situation warranted the investment of these items. It is not proposed to undertake these items unless desalinated water supplies become necessary.

There are four key elements to the project, these being:-

1. Sea water intake wells and transfer pump station at Lakes Beach
2. Transfer Main from the Transfer Pump station to the Desalination Plant
3. The Desalination Plant adjacent to the Toukley Waste Water Treatment Plant
4. The reject water disposal system utilising the existing treated effluent discharge tunnel.

Figure 1 Below is a locality map showing the Proposed Desalination Scheme.

■ Figure 5-1: Proposed Desalination Scheme



To minimise the impact of the initial construction phase of the desalination project on the community, it is proposed that these initial works be undertaken at the desalination plant site adjacent to the Toukley sewage treatment plant. It is proposed that these works be focused on the site works necessary to enable the rapid construction of the desalination facilities if and when required.

At the time that the Statement of Environmental Effects was prepared for this project the site contained stockpiled materials which the Notice of Determination required representative testing, characterisation in accordance with the Environmental Guidelines: Assessment,

Classification and Management of Liquid and Non Liquid Wastes (EPA 1999) with subsequent removal and disposal to a waste management facility lawfully permitted to accept the materials. Subsequent to the issuing of the Notice of Determination for the project DECCW issued Wyong Shire Council with a Clean Up Notice requiring the removal and disposal of the stockpiles. This has been undertaken satisfying the requirements of the Notice of Determination and the Clean Up Notice.

Further investigations have established that the site was used during the period 1950's – 1990's for night soil disposal and as a landfill. After the construction of the sewage treatment plant, sewage sludge was disposed of at this location. For this reason the site has been added to the remediation program for closed landfills and investigation under the Contaminated Lands Management Act has commenced.

The Guidelines for Consultants Reporting on Contaminated Sites outline four stages in the remediation of contaminated land which are summarised below:-

1. Preliminary investigation
2. Detailed investigation
3. Remedial Action plan and concept design
4. Validation and site monitoring

After each of the steps 1 to 3 above a DECCW accredited contaminated site auditor is required to validate the investigation reports and Remedial Action Plan.

After stage 3 and before stage 4 remediation works will be undertaken in accordance with the detailed designs developed based on the Remedial Action Plan.

For the Toukley site step 1 has been completed and the preliminary report is currently being assessed by the site auditor. With the current funding priority the rehabilitation investigation and design activities for the Toukley site will not be completed prior to June 2012. The responsibility for undertaking the remediation of contaminated lands at the Toukley site rests with Wyong Shire Council. A 50 % contribution towards these costs by the WSC water and sewer fund may enable these activities to be expedited.

To enable the desalination buildings, tanks and other facilities to be constructed, site preparatory works such as drainage, levelling and sedimentation and erosion control will be necessary. These works will need to be coordinated in an appropriate manner with the rehabilitation works to constitute commencement of construction of the desalination project.

In the event that the closed landfill remediation program cannot be undertaken in a timeframe that will enable the proposed site works to commence prior to June 2012 it is proposed the three pipelines to be constructed between the desalination site to the existing Norah head tunnel dosing tank a distance of approx 150 m be constructed prior to June 2012. See highlighted pipelines on Attachment 1 - schematic diagram for the details of these pipelines. These pipelines are within the contaminated site and would need to be constructed with all the necessary safety precautions relevant to the site.

Table 2 below outlines a potential phased approach to construction of the Toukley Desalination Plant to minimise financial impacts to the Central Coast community.

Table 2: Proposed phased approach to delivering the Toukley Desalination Plant

Phase	Description	Trigger to undertake phase
1	Undertake Preconstruction activities documented in the Development Consent Conditions to the level detailed in Table 3	Complete prior to phase 2 commencement.

	below.	
2	Undertake works at the desalination site including:- <ul style="list-style-type: none"> <li>• Minor upgrade of site fencing</li> <li>• Provide signage to fencing consistent with the requirements at Lakes Beach (condition 2.6 but at Desalination plant site)</li> <li>• Undertake geotechnical and contaminated sites assessment of desalination plant site</li> <li>• Installation of long term erosion and sedimentation controls to the site</li> <li>• Commence site levelling earthworks or pipelines between front of site and the dosing tank for the Norah Head outfall tunnel.</li> <li>• Weed management on site</li> </ul>	Undertake prior to July 2012
3	Investigation and preliminary activities required prior to contract documentation	Triggered 42 months prior to product water being required.
4	Prepare Contract Documentation to construct the major components. Includes 6 month EOI phase run in parallel	Triggered 3 years prior to product water being required to secure drought supply.
5	Call Tenders to construct <ul style="list-style-type: none"> <li>• Sea water intake wells and transfer pump station at Lakes Beach</li> <li>• Transfer Main from the Transfer Pump station to the Desalination Plant</li> <li>• The Desalination Plant</li> </ul>	Triggered 30 months prior to product water being required to secure drought supply. Calling tenders commits council to proceeding to complete all construction activities.

The development consent conditions have been structured in such a way that various conditions relate to the construction of the development as a whole while others relate the construction of individual components. A number of the conditions are required to be met prior to construction activities whilst others are required to be undertaken prior to commissioning, before the commencement of operations or on a scheduled basis after commissioning.

Table 3 below outlines the consent conditions that must be undertaken prior to the construction of the development or at the desalination plant site. There are a number of these conditions which could be staged to be compatible with staged construction. Table 3 includes commentary on the potential to stage the implementation of the consent conditions.

**Table 3 Proposed timing and extent of undertaking Consent Conditions.**

Cond No.	Condition	Comment
	<b>Utilities and Services</b>	
1.7	Identify all affected public utility services likely to be affected by proposal	Complete prior to phase 2
1.8	Consult affected utility providers	Complete prior to phase 2
1.9	Provide documentary evidence to the Director General (NSW Department of Planning) that the service/ utility providers	Complete prior to phase 2



Cond No.	Condition	Comment
	requirements have been met.	
	<b>Compliance</b>	
1.12	Certify in writing to the satisfaction of the Director General that all conditions applicable prior to commencement of construction have been complied with	Complete prior to phase 2
	<b>Development Design Requirements</b>	
2.1	Certify to the satisfaction of the Director-General that the relevant requirements of Development Control Plan No. 67 – Engineering Requirements for Development will be met.	Complete prior to phase 2  Include all requirements in any future design or construction activities. Provide written commitment to this effect with DG.
2.2	Demonstrate to satisfaction of the Director-General that a Certificate Compliance under the <i>Water Management Act 2000</i> for water and sewer requirements has been obtained.	Obtain Certificate of Compliance based on existing concept design documents. Complete prior to phase 2.
	<b>Dune and Beach Management</b>	
2.5	Install visible barriers to prevent unauthorised access to the construction area on Lakes Beach.	Clause states required “prior to commencement of construction works on Lakes Beach”.  Construction simple and low cost but will likely raise community concerns if undertaken prior to Phase 4 triggered by drought conditions. Phase construction activities at Desalination site first deferring beach barriers until works at Lakes Beach required.
2.6	Provide visible signage top barriers referred to in 2.5. This is to include signage detailing construction details such as contact number for public enquiries	See 2.5 Provide signage at Desalination site in Phase 2. Undertake clause 2.6 during Phase 4
	<b>Stockpiled Materials</b>	
2.23	Undertake representative sampling and testing of materials stockpiled on site and classify material. Then remove materials to a waste management facility.	Completed
2.27	Consult with the RTA in relation to raw water main, document agreement and provide copy to the Director General.	Complete prior to phase 2
	<b>Groundwater Monitoring</b>	
3.3	Develop a groundwater monitoring program to monitor the effects of seawater intake on local groundwater flows. Monitoring program to be submitted for approval of Director-	Develop program during Phase 1. Implement program during Phase 4

Cond No.	Condition	Comment
	General prior to construction or within such period as agreed by the Director General.	
	<b>Complaints Procedure</b>	
4.2	Develop Complaints Procedure	Complete prior to phase 2
4.3	Develop and manage a complaints register	Complete prior to phase 2
	<b>Environmental Representative</b>	
5.1	Nominate a Environmental Representative for approval by the Director General.	Undertake in Phase 1 but scope limited to only phase 2 activities. Environmental Representative scope expanded on triggering phase 4 and 5.
	<b>Construction Environmental Management Plan</b>	
5.2	Prepare and submit for the approval of the Director-General a Construction and Environmental Management Plan consistent with the <i>Guideline for the Preparation of Environmental Management Plans (DIPNR 2004)</i>	Clause 5.3 provides for staged construction. With agreement of DG. Prepare for Phase 2 activities only during Phase 1.
	<b>Annual Performance Reporting.</b>	
6.1	Submit an Annual Environmental Management Report (AEMR) for the life of the development.	Report annually

### Cost Estimate

The estimated cost for to achieve physical commencement for the desalination project is provided in table 4 below. It should be noted that the estimated cost does not include costs for the investigation, design and remediation under the Contaminated Lands Management Act associated with the closed landfill.

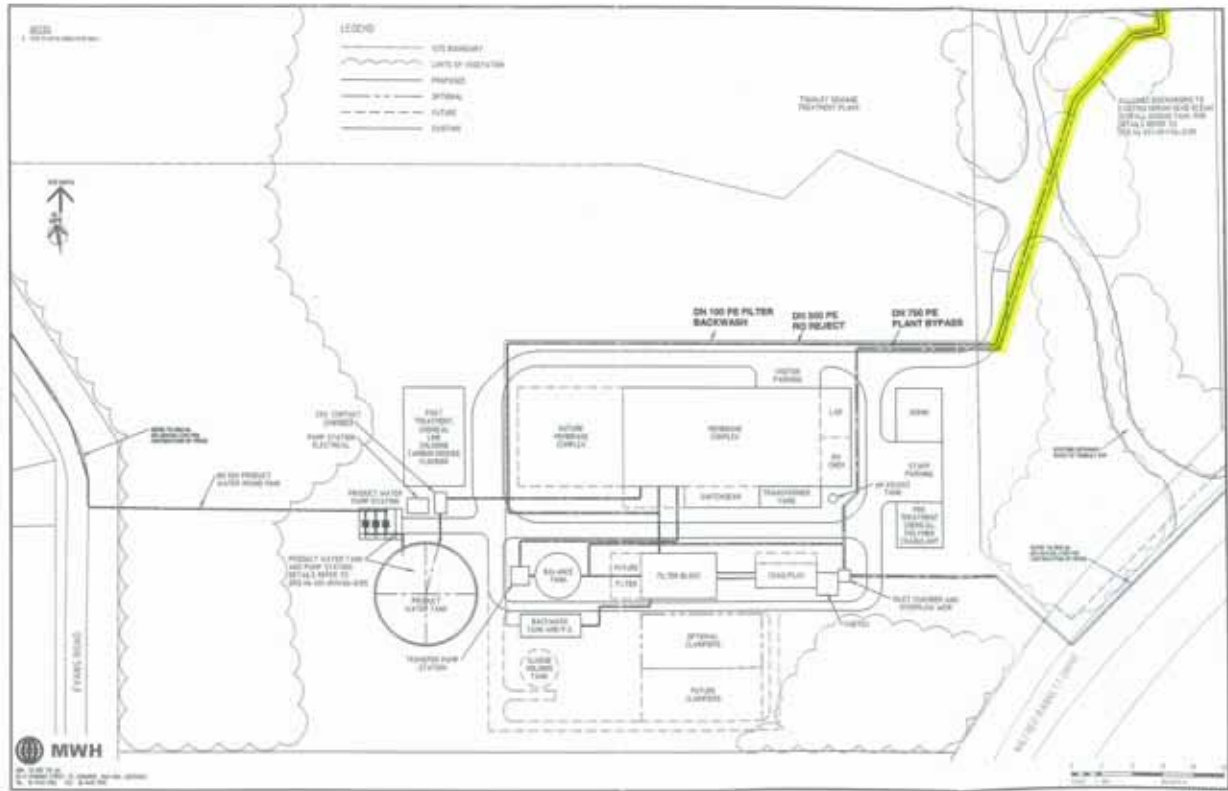
**Table 4 Estimated cost to achieve physical commencement**

Item	Estimated Cost	Notes
Project Management	50,000	Manage the consent condition process and manage the construction activities to establish commencement. Does not cover the Contaminated Lands remediation activities.
Pre Construction development consent conditions	110,000	Provides for the necessary items in the consent conditions required prior to construction.
Proposed Site levelling and preparation Works	300,000	Includes a provision of \$200,000 towards either commencement of site levelling works or pipelines between front of site and Norah Head tunnel dosing tank. Does not include the costs associated with rehabilitation of the site contamination.
Contingency 15 %	70 000	
<b>Total</b>	<b>530,000</b>	

The estimated cost to undertake the investigation and design for the remediation of the closed landfill under the Contaminated Lands Management Act is \$500,000.

**ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Toukley Desalination Site Layout  | D02307918 |
| 2 | Notice of Determination - attach copy Ministers conditions of consent for public display - Gosford Wyong Water Supply Desalination Scheme | D00920136 |





NSW GOVERNMENT  
Department of Planning

10 July 2007

Mr Ken Grantham  
Engineers Water & Waste - Manager  
Wyong Shire Council  
PO Box 20  
WYONG NSW 2259

Contact: Scott Jeffries  
Phone: (02) 9228 6426  
Fax: (02) 9228 6366  
Email: [scott.jeffries@planning.nsw.gov.au](mailto:scott.jeffries@planning.nsw.gov.au)

Our Ref: 9037379 (DA-168-7-2005-i)

Dear Mr Grantham

**Notice of Determination – Development Application (DA-168-7-2005-i) –  
Gosford Wyong Water Supply Desalination Scheme – Wyong Local Government Area**

On 6 July 2007, the Minister for Planning, the Hon Frank Sartor MP, granted development consent to the Gosford Wyong Water Supply Desalination Scheme (Development Application No. DA-168-7-2005-i), subject to conditions.

I have enclosed two copies of the Minister's conditions of consent for the development application. It would be appreciated if you could make a copy of these conditions available for inspection by the public at the Wyong Civic Centre.

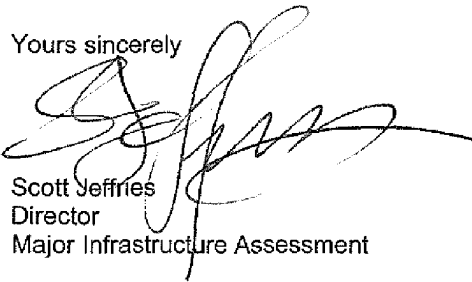
A copy of the conditions of consent will also be available shortly for inspection by the public at the Department's Information Centre (23-33 Bridge Street, Sydney).

You may view a copy of the Department's Assessment report and the conditions of consent shortly on the Department's website ([www.planning.nsw.gov.au](http://www.planning.nsw.gov.au), go to major project assessments/ notices of determination).

I have also attached an information sheet that details those matters required to be notified under the *Environmental Planning and Assessment Act 1979* (the Act).

Please do not hesitate to contact me on (02) 9228 6426 should you require any further information in relation to this matter, or compliance with the Minister's consent generally.

Yours sincerely

  
Scott Jeffries  
Director  
Major Infrastructure Assessment

**DEPARTMENT OF PLANNING**

**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

<i>Title and reference number of the development.</i>	Gosford Wyong Water Supply Desalination Scheme – DA No. DA-168-7-2005-i
<i>Name of Applicant.</i>	Wyong Shire Council
<i>The date on which consent has been granted or refused?</i>	Consent granted on 6 July 2007.
<i>Was consent subject to conditions?</i>	Yes.
<i>Reasons for the imposition of conditions.</i>	To prevent, minimise and/ or offset any adverse environmental impacts, set standards and performance measures for acceptable environmental performance and provide for on-going environmental management and regular monitoring and reporting on the development.
<i>The date from which the consent operates.</i>	The consent becomes effective and operates from the date that is endorsed on the notice given to the Applicant in accordance with Section 81(1) of the determination of the development application.
<i>The date from which the consent lapses.</i>	If the Applicant has not physically commenced work permitted by the consent within 5 years of the consent becoming operative (refer above), the consent will lapse.
<i>Was a public inquiry under s.119 of the EP&amp;A Act held?</i>	No.
<i>Which NSW Government Agencies gave General Terms of Approval as part of the consent?</i>	<ul style="list-style-type: none"> <li>• Wyong Shire Council; and</li> <li>• Environment Protection Authority (now part of the Department of Environment and Climate Change).</li> </ul>
<i>Does the EP&amp;A Act give rights of appeal to the applicant?</i>	Under Section 97 of the <i>Environmental Planning and Assessment Act, 1979</i> (the Act), the Applicant, if dissatisfied with the determination of the consent authority, has a right of appeal to the Land and Environment Court exercisable within 12 months after receipt of the notice of determination (this letter).
<i>Does the EP&amp;A Act give rights of appeal to an objector?</i>	No. The development is non-designated development, therefore there are no third party appeal rights to the Land and Environment Court under Section 98 of the Act.
<i>Where can I inspect the conditions of consent?</i>	Department's Information Centre and website – <a href="http://www.planning.nsw.gov.au">www.planning.nsw.gov.au</a> (go to major project assessments / notices of determination) and Wyong Shire Council.

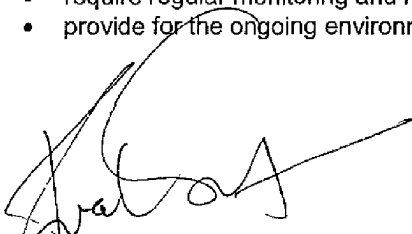
## Development Consent

### Section 80 of the *Environmental Planning and Assessment Act 1979*

I, the Minister for Planning, pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*, grant consent to the development referred to in Schedule 1, subject to the conditions in Schedule 2.

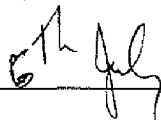
These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.



Frank Sartor MP  
Minister for Planning

Sydney



2007

File No: 9037379

#### SCHEDULE 1

<b>Development Application:</b>	DA-168-7-2005-i
<b>Application made by:</b>	Wyong Shire Council
<b>To:</b>	Minister for Planning
<b>In respect of:</b>	Lot 11 DP 632403, Lakes Beach (Crown Land) and road reserves of Budgewoi Road, Wilfred Barrett Drive and Main Road
<b>For the following:</b>	<p>Construction and operation of a 20 megalitre per day seawater reverse osmosis desalination plant adjacent to the Toukley sewage treatment plant, and associated infrastructure including:</p> <ul style="list-style-type: none"> <li>• sub-surface seawater intake infrastructure beneath Lakes Beach;</li> <li>• raw water pumping station at Lakes Beach;</li> <li>• raw water transfer main between Lakes Beach and the desalination plant; and</li> <li>• saline reject water discharge through the existing Norah Head Outfall.</li> </ul>

**KEY TO CONDITIONS**

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**SCHEDULE 2**

<b>Act, the</b>	<i>Environmental Planning and Assessment Act, 1979</i>
<b>Applicant, the</b>	Wyong Shire Council
<b>BCA, the</b>	Building Code of Australia
<b>Conditions of Consent</b>	The Minister's conditions of consent for the development
<b>Construction</b>	Any work requiring a Construction Certificate or bulk earthworks
<b>Council</b>	Wyong Shire Council
<b>DEC</b>	Department of Environment and Conservation
<b>Department, the</b>	Department of Planning
<b>Director-General, the</b>	Director-General of the Department of Planning (or delegate)
<b>Director-General's Approval</b>	<p>A written approval from the Director-General (or delegate).</p> <p>Where the Director-General's Approval is required under a condition the Director-General will endeavour to provide a response within one month of receiving an approval request. The Director-General may ask for additional information if the approval request is considered incomplete. When further information is requested the time taken for the Applicant to respond in writing will be added to the one month period.</p>
<b>EPA</b>	Environment Protection Authority as part of the Department of Environment and Conservation.
<b>EPL</b>	Environment Protection Licence issued under the <i>Protection of the Environment Operations Act 1997</i>
<b>Minister, the</b>	Minister for Planning
<b>Operation</b>	Intake of seawater in the desalination plant, for the purpose of testing/ commissioning or the production of potable drinking water.
<b>Publicly Available</b>	Available for inspection by a member of the general public (for example available on an internet site or at a display centre).
<b>RTA, the</b>	NSW Roads and Traffic Authority
<b>Site</b>	Land to which development application DA-168-7-2005-i) applies.

## 1. ADMINISTRATIVE CONDITIONS

### Terms of Approval

- 1.1 The Applicant shall carry out the development generally in accordance with:
- a) Development Application DA-168-7-2005-i, lodged with the Department of Planning on 12 July 2005;
  - b) *Gosford Wyong Water Supply Desalination Scheme: Statement of Environmental Effects* (two volumes), prepared by Sinclair Knight Merz and dated July 2005;
  - c) *Gosford Wyong Water Supply Desalination Scheme: Additional Water Quality and Aquatic Ecology Assessment*, prepared by Sinclair Knight Merz and dated October 2005; and
  - d) the conditions of this consent.
- 1.2 If there is any inconsistency between the above, the conditions of this consent shall prevail to the extent of the inconsistency.
- 1.3 In the event of an inconsistency between:
- a) the conditions of this approval and any document listed from condition 1.1a) to 1.1c) inclusive, the conditions of this consent shall prevail to the extent of the inconsistency; and
  - b) any document listed from condition 1.1a) to 1.1c) inclusive, and any other document listed from condition 1.1a) to 1.1c) inclusive, the most recent document shall prevail to the extent of the inconsistency.
- 1.4 The Applicant shall comply with any reasonable requirement(s) of the Director-General arising from the Department's assessment of:
- a) any reports, plans or correspondence that are submitted in accordance with this consent; and
  - b) the implementation of any actions or measures contained in these reports, plans or correspondence.

### Limits of Approval

- 1.5 The development shall be limited to a nominal capacity of 7,000 megalitres of desalinated water per annum.

### Statutory Requirements

- 1.6 <sup>1</sup>The Applicant shall ensure that all licences, permits and approvals are obtained and kept up-to-date as required throughout the life of the development. No condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals.

### Utilities and Services

- 1.7 <sup>2</sup>Prior to the commencement of construction of the development, the Applicant shall identify (including, but not limited to the position and level of service) all public utility services on the site, roadway, footpath, public reserve or any public areas that are associated with, and/or adjacent to the site, and/or likely to be affected by the construction and operation of the development.
- 1.8 <sup>3</sup>The Applicant shall consult with the relevant utility provider(s) for those services identified under condition 1.7 and make arrangements to adjust and/or relocate services as required. The Applicant shall bear the full cost associated with providing utilities and services to the site, and restoring any public infrastructure that may be damaged during the proposed works.

<sup>1</sup> Incorporates a Wyong Shire Council General Term of Approval (8)

<sup>2</sup> Incorporates a Wyong Shire Council General Term of Approval (15)

<sup>3</sup> Incorporates a Wyong Shire Council General Term of Approval (15)

- 1.9 <sup>4</sup>Prior to the commencement of construction works that may affect services/utilities, the Applicant shall provide documentary evidence to the Director-General that the requirements of the relevant utility provider(s) have been met.

#### **Compliance**

- 1.10 The Applicant shall ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.
- 1.11 The Applicant shall be responsible for environmental impacts resulting from the actions of all persons on site, including contractors, sub-contractors and visitors.
- 1.12 Prior to each of the events listed below, the Applicant shall certify in writing to the satisfaction of the Director-General that it has complied with all conditions of this consent applicable prior to that event.
- a) commencement of construction of the development;
  - b) commencement of commissioning the development; and
  - c) commencement of operation of the development.

## **2. SPECIFIC ENVIRONMENTAL CONDITIONS**

### **Development Design Requirements**

- 2.1 <sup>5</sup>Prior to the commencement of construction of the development, the Applicant shall certify to the satisfaction of the Director-General that the relevant requirements of *Development Control Plan No. 67 – Engineering Requirements for Development* have been or will be met in relation to carrying out the development.
- 2.2 <sup>6</sup>Prior to the commencement of construction of the development, the Applicant shall demonstrate to the satisfaction of the Director-General that it has obtained a Certificate of Compliance under the *Water Management Act 2000* for water and sewer requirements.

### **Greenhouse Gas Generation and Energy Efficiency**

- 2.3 The development shall be designed and constructed to incorporate energy recovery systems and energy efficient equipment to optimise energy efficiencies of the desalination plant operations.
- 2.4 Prior to the commencement of operation of the development, the Applicant shall develop and submit for the approval of the Director-General, a **Greenhouse Gas Reduction Plan** to detail a strategic plan for the management, minimisation and off-set of greenhouse gas generation associated with electricity supply to the desalination plant. The Plan shall include, but not necessarily be limited to:
- a) a specified outcome that greenhouse gas emissions attributable to the development (directly and indirectly) will be off-set to achieve a net operating performance criterion for the RO (membrane) plant of 2.0 kg CO<sub>2</sub> (equivalent) per kilolitre of desalinated water produced (i.e. an offset of 33% based on concept design estimates);
  - b) details of relevant regulatory requirements with respect to energy and greenhouse gases, and a system for managing change in these requirements over time;
  - c) a monitoring and recording system to track the energy consumption of the desalination plant development and the resultant equivalent emissions of carbon dioxide;
  - d) a framework for considering and managing factors such as availability, certainty, flexibility, adaptability, additionality and any co-benefits of options identified and/ or applied to achieve the outcome specified under a) above;
  - e) a framework and management principles for accommodating any shortfalls in the availability of renewable energy that may occur from time to time;

<sup>4</sup> Incorporates a Wyong Shire Council General Term of Approval (15)

<sup>5</sup> Incorporates Wyong Shire Council General Terms of Approval (5, 6, 7, 17 and 22)

<sup>6</sup> Incorporates a Wyong Shire Council General Term of Approval (2)

- f) systems to monitor and audit the processes, procedures and outcomes stipulated under the Plan; and
- g) a program for periodic review of the energy performance, and consideration of additional or improved energy efficiency measures that may be reasonably applied from time to time to ensure efficient energy use.

#### **Dune and Beach Management**

- 2.5 Prior to the commencement of construction works on Lakes Beach (including seawater intake and pumping station infrastructure), the Applicant shall install visible barriers to prevent unauthorised access to the construction area. The barriers shall be maintained for the duration of the construction works and shall be removed once the works have been completed.
- 2.6 As part of the barriers referred to under condition 2.5 of this consent, the Applicant shall install visible signage on the barriers to indicate:
- a) the nature, purpose and duration of construction works being undertaken;
  - b) that unauthorised access to the construction area is prohibited;
  - c) a contact name and telephone number for the person responsible for the management of the construction area and for responding to public inquiries; and
  - d) where relevant, the nearest alternative Beach access point(s) and route(s) for public access around the construction area.
- 2.7 To minimise the potential for erosion, the Applicant shall install timber sleepers and chains, or other measure acceptable to the Director-General, along the length of vehicle access points associated with construction works on Lakes Beach.
- 2.8 As soon as practicable after the conclusion of construction works along Lakes Beach, the Applicant shall stabilise and revegetate disturbed areas using locally endemic species.
- 2.9 All caissons and ancillary pipework installed as part of the development shall be constructed and maintained below the anticipated active scour depth on the active profile of Lakes Beach. Caissons and ancillary pipework shall only be permitted to be installed above this level with the prior written agreement of the Director-General, in consultation with DNR. In seeking the Director-General's approval under this condition, the Applicant shall submit a report, prepared by an independent and appropriately-qualified coastal engineering consultant, that demonstrates that installation of caissons and pipework above the anticipated active scour depth will not have an adverse impact on coastal processes and associated hazards.

#### **Soil and Water Quality Impacts**

- 2.10 Except as may be expressively provided by an Environment Protection Licence for the development, the Applicant shall comply with section 120 of the *Protection of the Environment Operations Act 1997* which prohibits the pollution of waters.

#### **Discharge Water Impacts**

- 2.11 The Applicant shall not permit the disposal to waters of lime sludge and backwash solids.
- 2.12 Notwithstanding condition 2.11, the Applicant may seek the Director-General's approval to discharge backwash (whether solid or in solution) to waters. In seeking approval under this condition, the Applicant shall prepare, and have subject to an independent and internationally-recognised peer review, a report that assesses and demonstrates as acceptable the impacts of backwash discharge to waters. The report shall be submitted to the satisfaction of the Director-General and the DEC, and shall include, but not necessarily be limited to, consideration of:
- a) water quality impacts of the backwash discharge, assessed against water quality criteria (including, as relevant, physico-chemical properties, odour and colour), guidelines and policies in force and applicable at the time of assessment;

- b) aquatic ecological impacts, including ecotoxicity, bioaccumulation, physical interference (for example, physical disruption of gill function) and the potential for smothering of benthic organisms; and
- c) amenity impacts, including the potential for re-entrainment and spread of any solid component of backwash discharges, effects on water colour and appearance and the potential for solids to be washed to shore or into recreational or commercial fishing areas.

The Applicant shall not permit the discharge of any backwash under this condition without the prior approval of the Director-General, after having consulted with the DEC.

- 2.13 <sup>7</sup>The Applicant shall ensure that seawater concentrate generated by the desalination plant is only discharged through the Norah Head Ocean Outfall and only after thorough mixing with effluent from the Toukley Sewage Treatment Plant.
- 2.14 <sup>8</sup>The Applicant shall ensure that seawater concentrate generated by the desalination plant and directed to the Toukley Sewage Treatment Plant does not exceed 33,000 kilolitres per day.

**Discharge Design Requirements**

- 2.15 <sup>9</sup>The Applicant shall design and construct the development so that seawater concentrate meets water quality criteria for relevant physico-chemical parameters (in particular, salinity and treatment chemicals) at the edge of the near field mixing zone, consistent with *Australian and New Zealand Guidelines for Fresh and Marine Water Quality* (ANZECC, 2000) and consistent with the objectives in *Marine Water Quality Objectives for NSW Ocean Waters* (DEC, 2006). In undertaking the design of the development to achieve these outcomes, the Applicant shall:
- a) consult with the DEC and DPI during the design of the development with respect to achievement of the outcomes specified under this condition;
  - b) develop a strategy for the desalination plant design and operation to verify the targeted dilution of the seawater concentrate at the edge of the near field mixing zone, including where necessary, further water quality sampling of receiving waters and a program of toxicity testing on simulated seawater concentrate in association with pilot testing;
  - c) develop measures to minimise the potential for seawater concentrate to cause acute toxicity within the near field mixing zone, including measures such as modification of the design of the outlets to increase the rate of dispersion or modification of the treatment process and chemicals to reduce the toxicity of the discharge; and
  - d) refine the design of the discharge point to minimise impacts on water quality and ecology as far as practicable, including as necessary, further surveys of current movements, physical modelling of near field dilution and habitat surveys.

The Applicant shall submit details of the final design of the seawater concentrate discharge point to the Director-General prior to the commencement of its construction, or within such period as otherwise agreed by the Director-General, demonstrating how the Applicant has complied with the requirements of this condition.

**Noise Impacts**

**Construction Noise**

- 2.16 <sup>10</sup>The Applicant shall only undertake construction activities associated with the development that would generate an audible noise at any residential premises between the following hours:
- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive;
  - b) 8:00 am to 1:00 pm on Saturdays; and

<sup>7</sup> Incorporates Environment Protection Authority General Terms of Approval (O10.1 and O10.2)

<sup>8</sup> Incorporates an Environment Protection Authority General Terms of Approval (L4.1)

<sup>9</sup> Incorporates Environment Protection Authority General Terms of Approval (L2.2, L3.1, L3.2, L3.3 and M2.1)

<sup>10</sup> Incorporates a Wyong Shire Council General Term of Approval (16)

- c) at no time on Sundays or public holidays.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons.

- 2.17 The hours of construction activities specified under condition 2.16 of this consent may be varied with the prior written consent of the Director-General. Any request to alter the hours of construction specified under condition 2.16 shall be:
- a) considered on a case-by-case basis;
  - b) accompanied by details of the nature and need for activities to be conducted during the varied construction hours; and
  - c) accompanied by written evidence of the DEC's agreement with the proposed variation in construction times, after providing any information necessary for the DEC to reasonably determine that activities undertaken during the varied construction hours will not adversely impact on the acoustic amenity of receptors in the vicinity of the site.

#### **Operation Noise**

- 2.18 The Applicant shall design, operate and maintain the desalination plant and raw water pumping station to ensure that the noise contribution from the development to the background acoustic environment at any residential premises in the Evans Road or Budgewoi Road residential areas does not exceed an  $L_{Aeq(15 \text{ minute})}$  value of 35 dB(A) at any time. The maximum allowable noise contribution applies under:
- a) wind speeds up to  $3 \text{ ms}^{-1}$  (measured at 10 metres above ground level); or
  - b) temperature inversion conditions up to  $3^{\circ}\text{C}$  per 100 metres and wind speeds up to  $3 \text{ ms}^{-1}$  (measured at 10 metres above ground level).
- 2.19 For the purpose of assessment of noise contributions specified under condition 2.18 of this consent, noise from the development shall be
- a) measured at the most affected point on or within the site boundary at the most sensitive locations to determine compliance with  $L_{Aeq(15 \text{ minute})}$  noise limits; and
  - b) subject to the modification factors provided in Section 4 of the *New South Wales Industrial Noise Policy* (EPA, 2000), where applicable.

Notwithstanding, should direct measurement of noise from the development be impractical, the Applicant may employ an alternative noise assessment method deemed acceptable by the DEC (refer to Section 11 of the *New South Wales Industrial Noise Policy* (EPA, 2000)). Details of such an alternative noise assessment method accepted by the DEC shall be submitted to the Director-General prior to the implementation of the assessment method.

#### **Contamination and Waste Management**

- 2.20 All waste materials removed from the site shall only be directed to a waste management facility lawfully permitted to accept the materials.
- 2.21 The Applicant shall ensure that all liquid and/ or non-liquid waste generated and/ or stored on the site is assessed and classified in accordance with the EPA's Environmental Guidelines: *Assessment, Classification and Management of Liquid and Non-Liquid Wastes* (Waste Guidelines) as in force as at 1 July 1999.
- 2.22 <sup>11</sup>The Applicant shall develop and implement waste management measures for the development in accordance with *Development Control Plan No. 69 – Controls for Site Waste Management*.

#### **Stockpiled Materials**

- 2.23 Prior to the commencement of construction of the desalination plant, the Applicant shall undertake representative sampling and testing of materials currently stockpiled on that land,

<sup>11</sup> Incorporates a Wyong Shire Council General Term of Approval (10)  
NSW Government  
Department of Planning

and shall characterise the stockpiled materials in accordance with *Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes* (EPA, 1999). All stockpiled materials shall be removed from the site prior to the commencement of construction and shall be disposed of to a waste management facility lawfully permitted to accept the materials.

#### **Dangerous Goods and Chemical Storage**

- 2.24 The Applicant shall store and handle all relevant combustible liquids and dangerous goods (as defined by the Australian Dangerous Goods Code) in impervious bunds or sealed areas consistent with all relevant Australian Standards and Environment Protection Manual Technical Bulletin *Bunding and Spill Management* (EPA, 1997).

#### **Traffic and Transport**

##### ***Works Affecting the Road Reserve***

- 2.25 The Applicant shall ensure that all works affecting the intersection of Main Road and Wilfred Barrett Drive are undertaken utilising trenchless technologies, and that these works do not require or lead to the opening of the road pavement in this location. The road crossing shall be perpendicular to the kerb or road shoulder.
- 2.26 Where possible, the Applicant shall install the raw water transfer main within existing easements for electrical supplies or outside the road reserve in a separate easement. Where this cannot be achieved, the Applicant may install the transfer main within the footpath or verge, but shall ensure that these works do not require, or lead to the opening of, the road pavement.
- 2.27 Prior to the commencement of construction of the development, the Applicant shall consult and enter into an agreement with the RTA with respect to management of the road reserve and potential conflicts between the road and the raw water transfer main. The agreement shall include, but need not necessarily be limited to arrangements for:
- a) indemnity incurred for the service;
  - b) upkeep of the road reserve affected by the development;
  - c) any damage caused or contamination of the soil due to pipeline failure; and
  - d) future relocation of the raw water transfer main and any other services associated with the development as part of any future road upgrades.

A copy of the agreement reached with the RTA shall be provided to the Director-General prior to the commencement of construction of the development.

##### ***Internal Roads and Parking***

- 2.28 The Applicant shall design, construct and maintain all internal roadworks within the desalination plant site, including associated parking facilities and loading bays, to meet or exceed the following requirements:
- a) compliance with the provisions of relevant Australian Standards, RTA standards and guidelines, and Council codes;
  - b) installation of clear signage to demarcate all vehicle movements within the site;
  - c) provision of directional pavement arrows on all internal road, and line-marking and signage to indicate designated truck routes and bays;
  - d) internal roadways wide enough to accommodate through traffic and turning two-way traffic;
  - e) design of site ingress and egress points to ensure that all vehicles enter and leave the site in a forward direction;
  - f) installation and maintenance of any landscaping on the site so as not to affect driver sight distance for vehicles entering and exiting the site;
  - g) provision for the separation of heavy and light vehicle ingress and egress points; and
  - h) clear demarcation of all visitor, disabled, ambulance and service vehicle parking areas.

- 2.29 The Applicant shall not permit any vehicles associated with the construction or operation of the development to park in Wilfred Barrett Drive or Budgewoi Road.

#### **Air Quality Impacts**

- 2.30 The Applicant shall not permit any offensive odour, as defined under section 129 of the *Protection of the Environment Operations Act 1997*, to be emitted beyond the boundary of the site.
- 2.31 The Applicant shall design, construct, commission, operate and maintain the development in a manner that minimises or prevents the emission of dust from the site. This shall include all trafficable areas and vehicle manoeuvring areas.

#### **Visual Amenity**

- 2.32 The Applicant shall ensure that all new external lighting associated with the development is mounted, screened, and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary, and be in general accordance with *AS 4282 – 1997 Control of the Obtrusive Effects of Outdoor Lighting*.

#### **Heritage Impacts**

- 2.33 The Applicant shall not undertake any construction activities that disturb or impact on the BW1 or BW2 Aboriginal heritage areas.

### **3. ENVIRONMENTAL MONITORING AND AUDITING**

#### **Water Quality Monitoring**

- 3.1 <sup>12</sup>The Applicant shall continuously monitor the volumes of seawater delivered to the desalination plant and the volumes of seawater concentrate discharged from the desalination plant to the Toukley Sewage Treatment Plant.
- 3.2 <sup>13</sup>The Applicant shall prepare and implement a **Marine Monitoring Program** to validate and calibrate modelling presented in the documents referred to under condition 1.1, and to provide proactive and reactive mechanisms for the mitigation and management of acute and chronic impacts associated with the discharge of seawater concentrate from the Norah Head Ocean Outfall. Implementation of the Program shall be commenced prior to the commencement of commissioning of the development, and shall continue throughout the life of the development, unless otherwise agreed by the DEC. The Program shall include, but need not necessarily be limited to:
- a) the use of passive introduced tracers in the discharge stream, pre- and post-commissioning, under a range of oceanographic and discharge conditions to calibrate and validate a near field numerical model that will make robust diagnostic and prognostic predictions of plume geometry and dilutions. This will require monitoring of ambient oceanographic conditions (e.g. currents, density structure, winds and a specific plume tracking regime);
  - b) consideration, as part of the modelling undertaken under a) of any changes to the configuration or orientation of discharge points associated with the existing Norah Head Ocean Outfall multi-port shoreline diffuser;
  - c) based on the calibrated and validated modelling undertaken under a), establishment and optimisation of the performance envelope of the outfall/ discharge in order to minimise the size/ volume of the mixing zone and to limit undesirable features such as boundary attachment;
  - d) reconciliation of the optimisation of the diffuser/ effluent/ plume matrix against the relevant ANZECC guidelines to provide a clear understanding of the mixing zone. Results are to be presented using a statistical approach that defines best, typical and worst case scenarios and the relative likely occurrence of each; and

<sup>12</sup> Incorporates Environment Protection Authority General Terms of Approval (P1.3 and M6.1)

<sup>13</sup> Incorporates Environment Protection Authority General Terms of Approval (U1.1)



- e) a program for periodic reporting of results of the Program to the DEC and the Director-General.

The Applicant shall submit a copy of the Program to the Director-General and the DEC prior to implementation.

#### **Groundwater Monitoring**

- 3.3 The Applicant shall prepare and implement a **Groundwater Monitoring Program** to monitor the effects of the seawater intake on local groundwater flows. The Program shall include, but need not necessarily be limited to:
- a) locations of monitoring bores, both up and down gradient of the seawater intake points;
  - b) parameters to be monitored, including procedures and protocols for sampling and testing;
  - c) a schedule for periodic monitoring of groundwater quality, depth and flow, at an initial frequency of not less than once every six months;
  - d) details of a background survey to establish groundwater quality, depth and flow prior to the commencement of construction the development; and
  - e) details of groundwater depth and flow changes that would indicate that the development is having an adverse impact on groundwater depths and flows, or is adversely impacting on surrounding groundwater-dependent ecosystems, and a contingency plan in the event that such impacts occur.

The Groundwater Monitoring Program shall be submitted for the approval of the Director-General prior to the commencement of construction of the development, or within such period as the Director-General may agree.

#### **Noise Monitoring**

- 3.4 Within 90 days of the commencement of operation of the development, or as may be directed by the Director-General, and during a period in which the development is operating under normal operating conditions, the Applicant shall undertake a program to confirm the noise emission performance of the facility. The program shall meet the requirements of the DEC, and shall include, but not necessarily be limited to:
- a) noise monitoring, consistent with the guidelines provided in the *New South Wales Industrial Noise Policy* (EPA, 2000), to assess compliance with condition 2.18 of this consent;
  - b) methodologies for noise monitoring;
  - c) location of noise monitoring;
  - d) frequency of noise monitoring;
  - e) identification of monitoring sites at which pre- and post-development noise levels can be ascertained;
  - f) details of any complaints received in relation to noise generated by the development within the first 90 days of operation;
  - g) an assessment of night-time use of audible alarm systems;
  - h) details of any noise mitigation measures and timetables for implementation; and
  - i) recommendations and timetables for implementation for any additional measures necessary to ensure compliance with the relevant noise-related conditions of this consent.

A report providing the results of the program shall be submitted to the Director-General and the DEC with 28 days of completion of the testing required under a).

#### **Independent Environmental Auditing**

- 3.5 Within one year of the commencement of operation of the development, and then as may be directed by the Director-General, the Applicant shall commission an independent person or team to undertake an Environmental Audit of the development. The independent person or team shall be approved by the Director-General prior to the commencement of the Audit.

The Audit shall:

- a) be carried out in accordance with *ISO 19011:2002 - Guidelines for Quality and/or Environmental Management Systems Auditing*;
- b) assess compliance with the requirements of this consent, and other licences and approvals that apply to the development;
- c) assess the environmental performance of the development against the predictions made and conclusions drawn in the documents referred to under condition 1.1 of this consent; and
- d) review the effectiveness of the environmental management of the development, including any environmental impact mitigation works.

An **Environmental Audit Report** shall be submitted to the Director-General within two months of the completion of the Audit, detailing the findings and recommendations of the Audit and including a detailed response from the Applicant to any of the recommendations contained in the Report.

#### **4. COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT**

- 4.1 Subject to confidentiality, the Applicant shall make all documents required under this consent available for public inspection on request.

##### **Complaints Procedure**

- 4.2 Prior to the commencement of construction of the development, the Applicant shall ensure that the following are available for community complaints for the life of the development (including construction and operation):
  - a) a telephone number on which complaints about construction and operational activities at the site may be registered;
  - b) a postal address to which written complaints may be sent; and
  - c) an email address to which electronic complaints may be transmitted.

The telephone number, the postal address and the email address shall be displayed on a sign near the entrance to the site (at the desalination plant site and the raw water pumping station site), in a position that is clearly visible to the public, and which clearly indicates the purposes of the sign.

- 4.3 The Applicant shall record details of all complaints received through the means listed under condition 4.2 of this consent in an up-to-date Complaints Register. The Register shall record, but not necessarily be limited to:
  - a) the date and time, where relevant, of the complaint;
  - b) the means by which the complaint was made (telephone, mail or email);
  - c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
  - d) the nature of the complaint;
  - e) any action(s) taken by the Applicant in relation to the complaint, including any follow-up contact with the complainant; and
  - f) if no action was taken by the Applicant in relation to the complaint, the reason(s) why no action was taken.

The Complaints Register shall be made available for inspection by the Director-General upon request.

#### **5. ENVIRONMENTAL MANAGEMENT**

##### **Environmental Representative**

- 5.1 Prior to the commencement of construction of the development, the Applicant shall nominate a suitably qualified and experienced Environmental Representative(s) for the approval of the Director-General. The Applicant shall employ the Environmental Representative(s) on a full-

time basis, or as otherwise agreed by the Director-General, during the life of the development. The Environmental Representative shall be:

- a) the primary contact point in relation to the environmental performance of the development;
- b) responsible for all Management Plans and Monitoring Programs required under this consent;
- c) responsible for considering and advising on matters specified in the conditions of this consent, and all other licences and approvals related to the environmental performance and impacts of the development;
- d) responsible for receiving and responding to complaints in accordance with condition 4.2 of this consent; and
- e) given the authority and independence to require reasonable steps be taken to avoid or minimise unintended or adverse environmental impacts, and failing the effectiveness of such steps, to direct that relevant actions be ceased immediately should an adverse impact on the environment be likely to occur.

The Applicant shall notify the Director General of any changes to that appointment that may occur from time to time.

#### **Construction Environmental Management Plan**

5.2 <sup>14</sup>Prior to the commencement of construction of the development, the Applicant shall prepare and submit for the approval of the Director-General a **Construction Environmental Management Plan** to outline environmental management practices and procedures to be followed during the construction of the development. Construction shall not commence until written approval has been received from the Director-General. The Plan shall be consistent with *Guideline for the Preparation of Environmental Management Plans* (DIPNR 2004) and shall include, but not necessarily be limited to:

- a) a description of all activities to be undertaken on the site during construction of the development, including an indication of stages of construction, where relevant;
- b) statutory and other obligations that the Applicant is required to fulfil during construction, including all approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;
- c) specific consideration of measures to address any requirements of the DEC during construction;
- d) a description of the roles and responsibilities for all relevant employees involved in the construction of the development and a program for how these employees will be trained in responsibilities identified in the plan;
- e) details of how the environmental performance of the construction works will be monitored, and what actions will be taken to address identified adverse environmental impacts. In particular, the following environmental performance issues shall be addressed in the Plan:
  - i) measures to monitor and manage dust emissions;
  - ii) <sup>15</sup>measures to monitor and minimise soil erosion and the discharge of sediment and other pollutants to lands and/ or waters during construction activities. These measures shall be in accordance with the requirements outlined in the Department of Housing's *Managing Urban Stormwater: Soils and Construction* and Wyong Shire Council's *Policy E1 – Erosion and Sediment Control*;
  - iii) measures to monitor and manage any contaminated soils/ materials encountered during construction;
  - iv) measures to monitor and manage any groundwater encountered during construction; and
  - v) measures to monitor and control noise emissions during construction.
- f) a description of the roles and responsibilities for all relevant employees involved in construction associated with the development; and

<sup>14</sup> Incorporates a Wyong Shire Council General Term of Approval (11)

<sup>15</sup> Incorporates a Wyong Shire Council General Term of Approval (7)

- g) arrangements for community consultation and complaints handling procedures during construction.
- 5.3 Where site preparation and construction works are to be undertaken in stages, the Applicant may, with the agreement of the Director-General, submit separate or staged Construction Environmental Plans relevant to the particular stages of construction.

#### **Operational Environmental Management Plan**

- 5.4 Prior to the commencement of operation of the development, the Applicant shall prepare and submit for the approval of the Director-General an **Operational Environmental Management Plan** to outline environmental management practices and procedures to be followed during the operation of the development. The Plan shall be consistent with the Department's *Guideline for the Preparation of Environmental Management Plans* (DIPNR 2004). Operations shall not commence until written approval has been received from the Director General.

### **6. ENVIRONMENTAL REPORTING**

#### **Annual Performance Reporting**

- 6.1 The Applicant shall, throughout the life of the development, prepare and submit to the Director-General, an **Annual Environmental Management Report** (AEMR). The AEMR shall review the performance of the development against the Operation Environmental Management Plan (refer to condition 5.4 of this consent), the conditions of this consent and other licences and approvals relating to the development. The AEMR shall include, but not necessarily be limited to:
- a) details of compliance with the conditions of this consent;
  - b) a copy of the Complaints Register (refer to condition 4.3 of this consent) for the preceding twelve-month period (exclusive of personal details), and details of how these complaints were addressed and resolved;
  - c) a comparison of the environmental impacts and performance of the development against the environmental impacts and performance predicted in those documents listed under condition 1.1 of this consent;
  - d) results of all environmental monitoring required under this consent and other approvals, including interpretations and discussion by a suitably qualified person; and
  - e) a list of all occasions in the preceding twelve-month period when environmental performance goals for the development have not been achieved, indicating the reason for failure to meet the goals and the action taken to prevent recurrence of that type of incident.

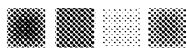
The Applicant shall submit a copy of the AEMR to the Director-General every year, with the first AEMR to be submitted no later than twelve months after the commencement of operation of the development.

- 6.2 The Director-General may require the Applicant to address certain matters in relation to the environmental performance of the development, in response to review of the Annual Environmental Management Report. Any action required to be undertaken shall be completed within such period as the Director-General may agree.

#### **Incident Reporting**

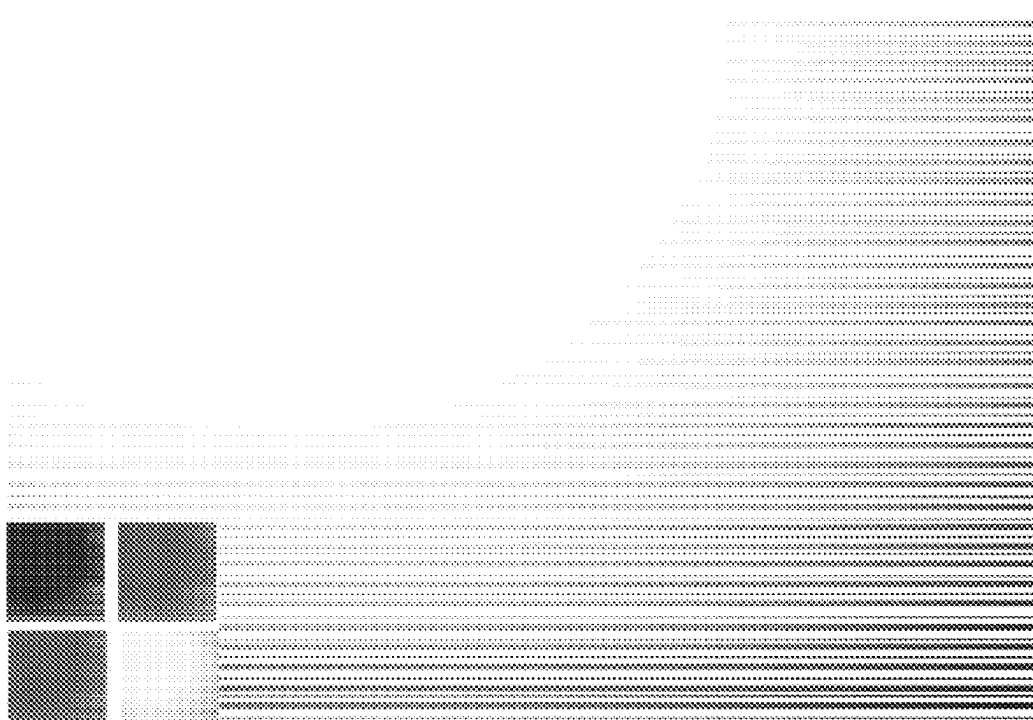
- 6.3 The Applicant shall notify the Director-General of any incident with actual or potential significant off-site impacts on people or the biophysical environment as soon as practicable after the occurrence of the incident. The Applicant shall provide written details of the incident to the Director-General within seven days of the date on which the incident occurred.
- 6.4 The Applicant shall meet the requirements of the Director-General to address the cause or impact of any incident, as it relates to this consent, reported in accordance with condition 6.3 of this consent, within such period as the Director-General may agree.

Central Coast Research Foundation  
ABN 65 082 304 514  
www.hvrf.com.au/central-coast-research-foundation



**Wyong Shire Council**  
Report from September 2010  
Central Coast Omnibus Survey

**Community Attitudes Regarding  
Council's investment of Resources**



CCRF #191/10

Central Coast Omnibus Survey  
September 2010

## Community Attitudes Regarding Council's investment of Resources

### Omnibus Report

Prepared for:

**Wyong Shire Council**

By:



Telephone: 1800 000 237  
Facsimile: 1800 000 238  
E-mail: [ccrf@hvr.com.au](mailto:ccrf@hvr.com.au)  
Internet: [www.hvr.com.au](http://www.hvr.com.au)  
5 Hall Street, Maryville NSW 2293  
ABN. 91 257 269 334

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## EXECUTIVE SUMMARY

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### Background

- Wyong Shire Council used the Central Coast Domestic Omnibus Survey undertaken by the Central Coast Research Foundation (CCRF) to assess community opinion regarding the investment of Council resources. The CCRF Omnibus is a multi-client survey, conducted biannually in March and September each year.
- The questions for Wyong Shire Council formed part of the September quarter survey conducted between 30 August and 24 September, inclusive, 2010. A random sample of 307 residents throughout the Central Coast was interviewed.

### Results

- **Community opinion regarding investment of Council resources :**

Almost half of respondents (49.7%) felt Council should invest more resources in *Better maintaining roads, bridges, footpaths and cycleways*.

Approximately one-third of respondents (34.1%) indicated that Council should invest more resources in *Slightly more maintenance across a range of asset categories*.

Less than one in ten respondents thought that Council should invest more resources in any of the other services presented.





## 1 INTRODUCTION

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- Wyong Council used the Central Coast Domestic Omnibus Survey undertaken by the Central Coast Research Foundation (CCRF) to assess community opinion regarding the investment of Council resources. The CCRF Omnibus is a multi-client survey, conducted biannually in March and September each year.
- The questions for Wyong Council formed part of the September quarter survey conducted between 30 August and 24 September, inclusive, 2010. A random sample of 307 residents throughout the Central Coast was interviewed.
- Analysis of results follows in Section 2. A copy of the questions is contained in Appendix I, a description of the survey methods is provided in Appendix II, the survey response rate is detailed in Appendix III, and the demographic characteristics of the survey sample are presented in Appendix IV.
- The results shown in Section 2 have been weighted according to the household size of the survey sample, as well as the age and sex distribution of the Central Coast population. See Appendix II for details.



## 2 RESULTS

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### 2.1 Community Opinion Regarding Investment of Council Resources

All respondents were asked:

"Recognising that your Council can't do everything; which of the following do you think your Council should invest more resources in:

- # Better maintaining roads, bridges, footpaths and cycleways
- # Better maintaining halls, libraries, youth centres and senior citizens centres
- # Better maintaining sports facilities, swimming pools, playgrounds and parks
- # Better maintaining bushland, lakes and other natural assets
- # Slightly more maintenance across a range of asset categories?"

Table 1 (over) provides overall frequencies of responses for the services which respondents considered Council should invest more resources in, as well as frequencies by gender. The results show that:

- Almost half of respondents (49.7%) felt Council should invest more resources in *Better maintaining roads, bridges, footpaths and cycleways*.
- Approximately one-third of respondents (34.1%) indicated that Council should invest more resources in *Slightly more maintenance across a range of asset categories*.
- Less than one in ten respondents thought that Council should invest more resources in any of the other services presented.
- There were no statistical differences between the gender groupings.
- Cross tabulations by age group have not been reported because some of the sample sizes are too small to allow valid comparisons.

**Table 1: Services Council should invest more resources in  
(by gender)**

Response	All	Gender	
		Male	Female
<i>Population base</i>	224,276	106,193	118,083
Roads, bridges, footpaths, cycleways	49.7%	54.4%	45.5%
Slightly more across range of assets	34.1%	25.6%	41.7%
Bushland, lakes, other natural assets	6.4%	7.5%	5.5%
Sports facilities, swimming pools, playgrounds and parks	4.4%	5.9%	3.1%
Halls, libraries, youth and seniors centres	4.3%	5.1%	3.6%
Don't know/refused	1.1%	1.5%	0.6%
Total	100.0%	100.0%	100.0%

*Explanatory notes:*

1. Percentages represent a proportion of the population base (i.e. Central Coast population aged 18 years and over).



## APPENDIX I. SURVEY QUESTIONNAIRE

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QWYC1

Recognising that your Council can't do everything; which of the following do you think your Council should invest more resources in?

- # Better maintaining roads, bridges, footpaths and cycleways
- # Better maintaining halls, libraries, youth centres and senior citizens centres
- # Better maintaining sports facilities, swimming pools, playgrounds and parks
- # Better maintaining bushland, lakes and other natural assets
- # Slightly more maintenance across a range of asset categories

1. Choice 8. Don't know

[ITEMS PRESENTED IN RANDOM ORDER]



## APPENDIX II : SURVEY DESIGN

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**Data collection:** The survey questions were developed in conjunction with the client. The questions were included in the September quarter Central Coast Domestic Omnibus survey program. This survey was administered on the CCRF's computer aided telephone interviewing (CATI) system between 30 August and 24 September (inclusive) 2010.

**Survey area:** Gosford-Wyong Statistical Sub-division.

**Sample selection:** 307 randomly selected households throughout the survey area with landline telephone connections. Contact telephone numbers for households were generated using the White Pages for number ranges within the Central Coast.

**Participants:** Individuals in the household aged 18 years or older, with random selection amongst the total number of adults in that household (i.e. households were contacted by telephone and an attempt was made to interview a randomly selected adult within that household). Up to five calls back were made to contact the household and, in the event that the required respondent was not available, a minimum of six additional calls was made to interview the selected respondent.

*The survey did not use quota sampling without 'call back'. This particular technique of data collection, with quotas based on a limited number of variables, commonly age and sex, is not as reliable in obtaining a representative sample as random sampling. For example, a quota of 18-24 year old males, without calls back, may exclude a unique group of potential respondents who are only at home at unusual times. The call back technique maximises the chances of a truly random sample since the interviewer is making a determined effort to contact the randomly chosen household and randomly chosen person within that household.*

**Data handling and analysis**

Carried out by the HVRF using SPSS/PC statistical analysis software.

Surveying attempts to make inferences for the whole of an area's population by talking to a small sub-group (sample) within that population. As the sample only approximates the whole population, it is necessary to take this approximate nature into account when comparing the scores and measures generated by the survey.

While the absolute value of scores and measures can change, it is necessary to test these changes statistically to find out whether they simply reflect the approximate nature of the sample or if they indicate a real difference in opinion. Statistically significant changes indicate that, at the 95 per cent level of confidence, there has been a real difference in opinion, as opposed to a difference attributable to chance.

Where applicable, the numeric values from the scales (1 to 5) were converted to an overall average (mean) score. This score is calculated only for those who responded using the 1 to 5 scale - it does not include non-scale responses (i.e. don't know or refused).

When interpreting the results, the distribution of ratings and the score need to be considered together, not individually.

For example, ratings which are evenly spread over the 1 to 5 scale may yield the same mean score as those which are relatively polarised at either end of the scale. The policy implications for these contrasting distributions are very different, despite the fact that they received the same score.

Recorded responses were weighted by:

\* The number of people living in the household and eligible for interview. This weighting procedure ensures that people living in larger households are given the same proportional representation as people living in smaller households.

\* The age and sex of the population aged 18 and over living in the Central Coast, determined by the 2006 *Census of Population and Housing*. This weighting procedure ensures that the sample is representative of the age and gender distribution of the survey population.

Population figures are presented in Section 2 tables, for the total population as well as in tables showing results cross-tabulated according to gender and age. These figures can be used to estimate the actual number of people within the Central Coast who would provide any given response.

**Statistical accuracy:**  $\pm 5.8\%$  for a prevalence of 50% at a confidence level of 95% for a sample size of 300.

**Example:** if 50% of respondents said 'yes' to a question that required a yes/no response, the true proportion of people aged 18 or over on the Central Coast who would give the same answer (if all were interviewed) would be between 44.2% and 55.8%, 95 times out of 100 (see right hand column of table 50%-50%).

If 30% of respondents said 'yes', the true proportion of people aged 18 or over on the Central Coast who would give the same answer would be between 44.7% and 55.3%, 95 times out of 100 (see 7th column 30-70%,  $\pm 5.3\%$ ).

PRECISION OF ESTIMATES FOR VARIOUS SAMPLE SIZES  
AND PREVALENCE LEVELS (FOR A 95% CONFIDENCE LEVEL)

PREVALENCE										
Sample Size	5% 95%	10% 90%	15% 85%	20% 80%	25% 75%	30% 70%	35% 65%	40% 60%	45% 55%	50% 50%
100	4.4	6.0	7.1	8.0	8.7	9.2	9.5	9.8	9.9	10.0
200	3.1	4.2	5.0	5.7	6.1	6.5	6.7	6.9	7.0	7.1
<b>300</b>	<b>2.5</b>	<b>3.5</b>	<b>4.1</b>	<b>4.6</b>	<b>5.0</b>	<b>5.3</b>	<b>5.5</b>	<b>5.7</b>	<b>5.7</b>	<b>5.8</b>
400	2.2	3.0	3.6	4.0	4.3	4.6	4.8	4.9	5.0	5.0
500	1.9	2.7	3.2	3.6	3.9	4.1	4.3	4.4	4.4	4.5
600	1.8	2.4	2.9	3.3	3.5	3.7	3.9	4.0	4.1	4.1
800	1.5	2.1	2.5	2.8	3.1	3.2	3.4	3.5	3.5	3.5
1,000	1.4	1.9	2.3	2.5	2.7	2.9	3.0	3.1	3.1	3.2
1,500	1.1	1.5	1.8	2.1	2.2	2.4	2.5	2.5	2.6	2.6
2,000	1.0	1.3	1.6	1.8	1.9	2.0	2.1	2.2	2.2	2.2
3,000	0.8	1.1	1.3	1.5	1.6	1.7	1.7	1.8	1.8	1.8

## APPENDIX III: SURVEY RESPONSE RATE

September 2010 Central Coast Domestic Omnibus Survey			
FINAL OUTCOME	N	N as % of Total	N as % of Eligible
<b>Ineligible</b>			
Business number	8	1%	
Disconnected number	163	16%	
Fax machine	12	1%	
Call back – exhausted attempts	0	0%	
Not available in survey period	142	14%	
Unsuitable (not in age group/population)	45	5%	
No answer – exhausted attempts	41	4%	
Answering machine	85	9%	
Engaged/busy signal	5	1%	
Language problem	1	0%	
Not in area	11	1%	
<b>Total ineligible</b>	<b>513</b>	<b>51%</b>	
<b>Eligible</b>			
<i>Consenters</i>			
<b>Completed interviews</b>	<b>307</b>	<b>13%</b>	<b>63%*</b>
<i>Non consenters</i>			
Household refusal	115	12%	24%
Personal refusal	64	6%	13%
Incomplete interview	0	0%	0%
<b>Total eligible</b>	<b>486</b>	<b>49%</b>	<b>100%</b>
<b>Total N</b>	<b>999</b>	<b>100%</b>	<b>100%</b>
<b>Response Rate*</b>			
<b>63%</b>			

\*Response Rate - number of completed interviews as a proportion of eligible contacts



## APPENDIX IV: SURVEY DEMOGRAPHICS

**Note:** Proportions shown in the following tables are based on the weighted sample and reflect the gender and age of the population as determined by the 2006 *Census of Population and Housing*.

September 2010 Central Coast Domestic Omnibus Survey		%
Population Base		224,276
<b>GENDER</b>		
Male		47.3
Female		52.7
<b>AGE</b>		
18-24 years		10.4
25-34 years		14.2
35-49 years		27.7
50-64 years		23.6
65+ years		24.2
<b>WORK STATUS</b>		
Paid full-time employment		39.6
Paid part-time/casual employment		18.6
Looking for paid employment		2.5
Full-time/part-time student		5.2
Home duties		3.7
Pensioner/retired		30.1
Refused		0.1
<b>ADULTS IN THE HOUSEHOLD</b>		<b>WORKING ADULTS IN THE HOUSEHOLD</b>
0	-	27.1
1	14.9	28.4
2	58.0	29.9
3	17.8	9.6
4+	9.2	4.8
Refused		0.1
<b>LOCAL GOVERNMENT AREA OF RESIDENCE</b>		
Gosford		50.3
Wyong		49.7