
WYONG SHIRE COUNCIL

REPORTS TO THE ORDINARY MEETING OF COUNCIL

TO BE HELD IN THE COUNCIL CHAMBER,
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 12 MARCH 2008,
COMMENCING AT 5.00 PM

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ORDINARY MEETING OF COUNCIL

12 MARCH 2008

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WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

General Manager's Report

089 Disclosures of Interest

F2008/00003 ED:MR

The provisions of Chapter 14 of the Local Government Act, 1993 regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

RECOMMENDATION

That Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

General Manager's Report

090 Proposed Inspections

F2008/00003 ED:MR

SUMMARY

Inspections proposed to be held on 26 March 2008 and prior to the second Ordinary Meeting are listed as follows:

Date of Inspection	Location	Requested By
26 March 2008	477- 481 The Entrance Road, Long Jetty – Commercial development of restaurant, bulky goods, car parking and demolition of existing structures.	Director Shire Planning
26 March 2008	Buff Point Cycleway	Director Shire Services
26 March 2008	Noraville Cemetery Memorial Gardens – Completion of Stage 1	Director Shire Services
26 March 2008	Dickson Road – Reconstruction	Director Shire Services

RECOMMENDATION

That the report on inspections to be conducted on Wednesday, 26 March 2008 be received and the information noted.

WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

General Manager's Report

091 Proposed Briefings

F2008/00003 ED:MR

SUMMARY

Briefings proposed for this meeting and future meetings to be held in Wilfred Barrett and Tim Farrell Committee Rooms.

Date	Briefing	Description	Time	Presented by
12 March 2008	Air Quality	Further to Notice of Motion 497 from 28/11/07 meeting, Council resolved to defer to NOM pending a briefing on Air Quality.	11.00 am – 12.00 noon	Senior Ecology and Sustainability Officer, Manager Regulation and Compliance with reps from DECC
12 March 2008	Management Plan	Feedback from Councillors on proposed draft management plan.	12.00 noon – 1.00 pm	Manager Economic/Corporate Planning
12 March 2008	Holiday Park Improvements	Presentation of the current status of the work completed, relocations and work to be undertaken this year	1.00 pm – 1.30 pm	Manager Business Unit
12 March 2008	Police Citizens Youth Club (PCYC)	Provide an update on current operations	1.30pm – 2.00 pm	Community Development Manager
12 March 2008	Minnesota Road	Briefing requested by Council on construction of Minnesota Road	2.00pm – 3.00 pm	Director Shire Services

RECOMMENDATION

That the report be received and the information noted.

12 March 2008
To the Ordinary Meeting of Council

General Manager's Report

092 Address by Invited Speakers

F2008/00003 ED:MR

SUMMARY

The following people have been invited to address the meeting of Council:

SPEAKERS	REPORT	PAGE NO	DURATION
Caroline Donnelly, resident. (against the Item)	096 - Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Glenning Valley – DA 611/2006.	42	5 mins
Mr John Lewer on behalf of SKMC. (in favour of the Motion)	107 - Notice of Motion - Pipeline Corridor Quarantine Zone	135	5 mins

RECOMMENDATION

- 1** *That the report on Invited Speakers be received and the information noted.*
- 2** *That standing orders be varied to allow Director's and General Manager reports to be dealt with following the speaker's address.*

WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

General Manager's Report

093 Confirmation of Minutes of Previous Meeting

F2008/00003 ED:MR

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 27 February 2008.

RECOMMENDATION

That the minutes of the previous Ordinary Meeting of Council held on 27 February 2008 be received and confirmed.

WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 27 FEBRUARY 2008,
COMMENCING AT 5.05 PM

PRESENT

COUNCILLORS W J WELHAM (CHAIRPERSON), G P BEST, D J EATON, R L GRAHAM, B J PAVIER, N T ROSE, R E STEWART, R C STEVENS AND C W VEUGEN.

IN ATTENDANCE

GENERAL MANAGER, DIRECTOR SHIRE SERVICES, DIRECTOR CORPORATE SERVICES, DIRECTOR SHIRE PLANNING, ASSISTANT DIRECTOR SHIRE SERVICES, MANAGER DEVELOPMENT ASSESSMENT, ACTING MANAGER FUTURE PLANNING, AND AN ADMINISTRATION OFFICER.

THE MAYOR, COUNCILLOR W J WELHAM, DECLARED THE MEETING OPEN AT 5.05 PM, ADVISED THAT THE MEETING IS BEING RECORDED AND PASTOR CHRIS RUBIE DELIVERED THE OPENING PRAYER.

APOLOGY

AN APOLOGY FOR THE INABILITY TO ATTEND THE MEETING WAS RECEIVED ON BEHALF OF COUNCILLOR FORSTER DUE TO FAMILY ILLNESS.

RESOLVED unanimously on the motion of Councillor WELHAM and seconded by Councillor STEVENS:

That the apology be accepted and leave of absence from the meeting be granted.

AT THE COMMENCEMENT OF THE ORDINARY MEETING REPORT NOS 064, 065, 066, 067 069, 070 AND 074, WERE DEALT WITH FIRST THEN THE REMAINING REPORTS IN ORDER. HOWEVER FOR THE SAKE OF CLARITY THE REPORTS ARE RECORDED IN THEIR CORRECT AGENDA SEQUENCE.

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

064 Disclosures of Interest

F2008/00003 MW:SW

071 CONTRACTS CPA/136398, CPA/136399, CPA/136400 AND CPA/136401 PROVISION OF IMPROVEMENT WORKS 2007/2008 - COUNCIL'S FOUR HOLIDAY PARKS

COUNCILLOR BEST DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE HAS FAMILY THAT USE COUNCIL VAN PARKS LEFT THE CHAMBER AT 6.40 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.45 PM.

072 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR BEST DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS CHILDREN ATTEND THE SCHOOL REFERRED TO IN THE REPORT LEFT THE CHAMBER AT 6.40 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.45 PM.

072 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS MOTHER IS A MEMBER OF THE TOUKLEY ANGLICAN CHURCH PARISH AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE MY MOTHER DOES NOT HAVE ANY POSITION ON THE PARISH COUNCIL, THE DECISION MAKING BODY OF THE PARISH."

074 OASIS YOUTH CENTRE

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF THE SALVATION ARMY ADVISORY BOARD AND CHAIRS THE RESIDENTIAL APPEAL FOR THE DOOR KNOCK AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR ROSE STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY."

076 MINUTES OF GOSFORD/WYONG COUNCILS' WATER AUTHORITY BOARD MEETING – 20 FEBRUARY 2008 – ITEM WA013 VALES POINT EFFLUENT

COUNCILLOR EATON DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT EFFLUENT PIPELINE IS PROPOSED ALONG FAMILY COMPANY'S LAND AT MANNERING PARK AND PARTICIPATED IN CONSIDERATION OF THIS MATTER AS ITEM WA013 WAS NOT DISCUSSED.

088 NOTICE OF RESCISSION – DRAFT DEVELOPMENT CONTROL PLAN (DCP) 2005: CHAPTER 36 – NORTH WYONG INDUSTRIAL AREA AND DRAFT LOCAL ENVIRONMENTAL PLAN (LEP) 174

COUNCILLOR EATON DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS SOLICITOR FOR THE LANDOWNER LEFT THE CHAMBER AT 8.35 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 9.05 PM.

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

088 NOTICE OF RESCISSION – DRAFT DEVELOPMENT CONTROL PLAN (DCP) 2005: CHAPTER 36 – NORTH WYONG INDUSTRIAL AREA AND DRAFT LOCAL ENVIRONMENTAL PLAN (LEP) 174
 COUNCILLOR VEUGEN DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS EMPLOYER HAS AN ASSOCIATION WITH THE LAND OWNER AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VEUGEN STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THERE IS NO CONFLICT WITH MY EMPLOYMENT."

RESOLVED unanimously on the motion of Councillor ROSE and seconded by Councillor STEWART:

That the report be received and advice of disclosures noted.

065 Proposed Inspections

F2008/00003 MW:SW

RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor GRAHAM:

That the report on inspections conducted on Wednesday, 27 February 2008 be received and the information noted.

066 Proposed Briefings

F2008/00003 MW:SW

RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor STEVENS:

That the report be received and the information noted.

067 Address by Invited Speakers

F2008/00003 MW:SW

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor STEVENS:

- 1 That the amended report on Invited Speakers be received and the information noted.***
- 2 That standing orders be varied to allow Director's and General Manager reports to be dealt with following the speaker's address.***

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

068 Confirmation of Minutes of Previous Meeting

F2008/00003 MW:SW

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:

That the amended minutes of the previous Ordinary Meeting of Council held on 13 February 2008 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

**069 Change of Use to a Place of Worship – Lot 5
DP 262772**

DA/1701/2007 TG

COUNCILLOR PAVIER LEFT THE CHAMBER AT 5.24 PM AND RETURNED TO THE CHAMBER AT 5.26 PM AND AS A RESULT TOOK NO PART IN VOTING.

COUNCILLOR ROSE LEFT THE CHAMBER AT 5.25 PM AND RETURNED TO THE CHAMBER AT 5.26 PM AND AS A RESULT TOOK NO PART IN VOTING.

PASTOR MURRAY NEWMAN, REPRESENTING BAYSIDE CHRISTIAN LIFE CENTRE, ADDRESSED THE MEETING AT 5.20 PM, ANSWERED QUESTIONS AND RETIRED AT 5.24 PM.

MR JAMIE BONNEFIN, ARCHITECT, REPRESENTING THRUM ARCHITECTS, ADDRESSED THE MEETING AT 5.14 PM, ANSWERED QUESTIONS AND RETIRED AT 5.24 PM.

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor EATON:

- 1 *That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions.***
- 2 *That the General Manager be authorised to determine any application for minor modifications to the approved development plans and/or consent conditions.***
- 3 *That DCP 2005 Chapter 61, Carparking be varied to permit the proposed development.***

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

070 Prioritising the Reconstruction of Minnesota Road

F2004/11318 ABP/RCB:JEM

COUNCILLOR PAVIER LEFT THE CHAMBER AT 6.00 PM AND RETURNED TO THE CHAMBER AT 6.02 PM DURING CONSIDERATION OF THIS ITEM.

MR FRANK TIBBLES, RESIDENT, AGAINST THE PROPOSAL, ADDRESSED THE MEETING AT 5.25 PM, ANSWERED QUESTIONS AND RETIRED AT 5.34 PM.

It was MOVED by Councillor STEWART and SECONDED by Councillor VEUGEN:

- 1 *That Council give consideration to the inclusion of the upgrading of Minnesota Road within Council's Rolling Works Program for the 2009/2010 and 2010/2011 years as part of the 2008/2009 Management Plan.*
- 2 *That as part of the upgrade works Council undertake a traffic count and if this indicates traffic calming devices are necessary these be installed.*

An AMENDMENT was MOVED by Councillor ROSE and SECONDED by Councillor WELHAM:

- 1 *That this item be deferred pending a briefing that takes into consideration the inclusion of the upgrading of Minnesota Road within Council's Rolling Works Program for the 2009/2010 and 2010/2011 years as part of the 2008/2009 Management Plan.*
- 2 *That the briefing to include reasons why a deviation realignment is not recommended.*
- 3 *That Council conduct traffic counts of Minnesota Road.*

FOR: COUNCILLORS EATON, GRAHAM, PAVIER, ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, STEWART AND VEUGEN.

The AMENDMENT became the MOTION.

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

A further AMENDMENT was MOVED by Councillor BEST and SECONDED by Councillor VEUGEN:

- 1 That Council include the upgrade of Minnesota Road within Council's Rolling Works Program for the 2009/2010 and 2010/2011 years as part of the 2008/2009 Management Plan.
- 2 That Council hold an urgent briefing to deal with the issues raised by the residents of the existing Northern Section of Minnesota Road, including EEC's.

FOR: COUNCILLORS BEST, STEWART AND VEUGEN.

AGAINST: COUNCILLORS EATON, GRAHAM, PAVIER, ROSE, STEVENS AND WELHAM.

The AMENDMENT was put to the VOTE and declared LOST.

RESOLVED on the motion of Councillor ROSE and seconded by Councillor WELHAM:

- 1 That this item be deferred pending a briefing that takes into consideration the inclusion of the upgrading of Minnesota Road within Council's Rolling Works Program for the 2009/2010 and 2010/2011 years as part of the 2008/2009 Management Plan.
- 2 That this briefing include reasons why a deviation of alignment is not recommended.
- 3 That Council conduct traffic counts of Minnesota Road.

FOR: COUNCILLORS EATON, GRAHAM, PAVIER, ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, STEWART AND VEUGEN.

071 Contracts CPA/136398, CPA/136399, CPA/136400 and CPA/136401 Provision of Improvement Works 2007/2008 - Council's Four Holiday Parks

CPA/136398, CPA/136399, CPA/136400 and CPA/136401 RDN:JEM

COUNCILLOR BEST DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE HAS FAMILY THAT USE COUNCIL VAN PARKS LEFT THE CHAMBER AT 6.40 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.45 PM.

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

RESOLVED on the motion of Councillor GRAHAM and seconded by Councillor STEVENS:

- 1 That Council accept Tender No CPA/136398 (Toowoomba Bay Holiday Park) from Jenbuild Pty Ltd for the lump sum amount of \$374,000 including GST (\$340,000 excluding GST).**
- 2 That Council accept Tender No CPA/136399 (Norah Head Holiday Park) from Jenbuild Pty Ltd in the lump sum amount of \$820,600 including GST (\$746,000 excluding GST).**
- 3 That Council accept Tender No CPA/136400 (Canton Beach Holiday Park) from Jenbuild Pty Ltd in the lump sum amount of \$319,000 including GST (\$290,000 excluding GST).**
- 4 That Council accept Tender No CPA/136401 (Budgewoi Holiday Park) from Jenbuild Pty Ltd in the lump sum amount of \$327,800 including GST (\$298,000 excluding GST).**
- 5 That Council approve a combined contingency amount of \$184,140 including GST (\$167,400 excluding GST), representing 10% of the sum of the four contracts, to provide for any unforeseen additional works that may become necessary during the course of the project. This amount is to be distributed proportionally across all contracts.**

FOR: COUNCILLORS GRAHAM, ROSE, STEVENS, STEWART AND WELHAM.

AGAINST: COUNCILLORS EATON, PAVIER AND VEUGEN.

072 Proposed Councillors' Community Improvement Grants

F2007/00729 SG

COUNCILLOR BEST DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS CHILDREN ATTEND THE SCHOOL REFERRED TO IN THE REPORT LEFT THE CHAMBER AT 6.40 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.45 PM.

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS MOTHER IS A MEMBER OF THE TOUKLEY ANGLICAN CHURCH PARISH AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE MY MOTHER DOES NOT HAVE ANY POSITION ON THE PARISH COUNCIL, THE DECISION MAKING BODY OF THE PARISH."

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor ROSE:

That an amount of \$800.00 be allocated from the 2007/2008 Councillors' Community Improvement Grants as outlined in Attachment 1.

073 Delegations of Authority under the Noxious Weeds Act 1993

F2004/06923 PM

RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor STEVENS:

- 1 That Council rescind all previous appointments and delegations under the Noxious Weeds Act 1993.**
- 2 That Council appoint the Noxious Weeds and Pest Species Officer as an inspector under Section 41 of the Noxious Weeds Act 1993.**
- 3 That Delegation be given to Kerry Yates, Paul Wise, Michael Achelles, Paul Marynissen and Darren Williams to carry out Council's duties and responsibilities under sections 12, 18a, 18, 19, 20, 28, 29, 30, 32, 36a, 41, 45, 46, 47, 50, 54, 55 and 64 of the Noxious Weeds Act 1993 outlined in the enclosure.**

074 Oasis Youth Centre

F2004/07853 JV

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF THE SALVATION ARMY ADVISORY BOARD AND CHAIRS THE RESIDENTIAL APPEAL FOR THE DOOR KNOCK AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR ROSE STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY."

COUNCILLOR BEST LEFT THE CHAMBER AT 6.18 PM AND RETURNED TO THE CHAMBER AT 6.25 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 6.18 PM AND RETURNED TO THE CHAMBER AT 6.20 PM DURING CONSIDERATION OF THIS ITEM.

CAPTAIN ANDREW SCHOFIELD, DIVISIONAL SOCIAL PROGRAM SECRETARY, REPRESENTING THE SALVATION ARMY, ADDRESSED THE MEETING AT 6.18 PM, ANSWERED QUESTIONS AND RETIRED AT 6.25 PM.

MR MALCOLM PITTENDRIGH, BUSINESS MANAGER, REPRESENTING THE SALVATION ARMY WAS AVAILABLE FOR QUESTIONS.

MR DYLAN DYER, OASIS CENTRE MANAGER, REPRESENTING THE OASIS YOUTH CENTRE WAS AVAILABLE FOR QUESTIONS.

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

RESOLVED unanimously on the motion of Councillor ROSE and seconded by Councillor PAVIER:

- 1 ***That the General Manager be authorised to finalise negotiations for a 2 x 2 year agreement in line with the principles between Salvation Army and Wyong Shire Council detailed in this report.***
- 2 ***That as the lease rolls out Council consider its strategic direction of the site land and other potential sites for the youth centre.***

**075 2007/2008 Management Plan – December 2007
Quarter Review**

F2004/07006 BR

COUNCILLOR WELHAM VACATED THE CHAIR AT 7.03 PM AND COUNCILLOR STEVENS ASSUMED THE CHAIR DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR WELHAM RESUMED THE CHAIR AT 7.05 PM

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor ROSE:

- 1 ***That Council receive and note the report and endorse budget amendments proposed in this report.***
- 2 ***That Council note the advice from Council's Responsible Accounting Officer that in accordance with the Local Government (General) Regulation 2005 (Part 9 Division 3; Clause 203) that Council's financial position is satisfactory.***

**076 Minutes of Gosford/Wyong Councils' Water Authority
Board Meeting – 20 February 2008**

F2004/06808 SG

COUNCILLOR EATON DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT EFFLUENT PIPELINE IS PROPOSED ALONG FAMILY COMPANY'S LAND AT MANNERING PARK AND PARTICIPATED IN CONSIDERATION OF THIS MATTER AS ITEM WA013 WAS NOT DISCUSSED.

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:

That WA013 be dealt with as a separate item.

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

RESOLVED unanimously on the motion of Councillor WELHAM and seconded by Councillor STEWART:

- 1 *That the minutes of the Gosford/Wyong Councils' Water Authority Board meeting held on 20 February 2008 with the exception of item WA013 be received and the recommendations contained therein, adopted.*
- 2 *That Council's current position on waiving DA fees on water tanks be continued whilst the community is on Level 3 water restrictions.*
- 3 *That Council's current position on waiving development fees for grey water reuse schemes be continued whilst the community is on Level 3 water restrictions.*
- 4 *That Wyong Shire Council encourage Gosford City Council to provide similar concessions.*

077 Minutes of the Wyong Shire Governance Committee Meeting – 13 February 2008

F2004/07245 MW

RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor ROSE:

That the minutes of the Wyong Shire Governance Committee meeting held on 13 February 2008 be received and the recommendations contained therein, adopted.

Information Reports

The information reports were dealt with by the exception method. Report No 080 was called for debate.

078 Activities of the Development Assessment Unit

F2004/07830 NL:NL

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor PAVIER:

That the report be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

079 Results of Water Quality Testing for Bathing Beaches

F2004/06822 DR:DR

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor PAVIER:

That the report be received and the information noted.

080 Fraser Island Sandmining Case

F2006/01080

It was MOVED by Councillor EATON and SECONDED by Councillor BEST:

- 1 *That the report be received and the information noted.*
- 2 *That this information be forwarded to all Federal Government members.*
- 3 *That as part of this information being provided to Local Federal Members information be included that Mr Craig Thomson, Member for Dobell indicated in a public forum the pledge to introduce to Federal Parliament a private members bill to stop the coal mine.*
- 4 *That Mr Craig Thomson, Member for Dobell be requested to advise when he will be introducing to Federal Parliament his private members bill to stop the coal mine.*

An AMENDMENT was MOVED by Councillor WELHAM and SECONDED by Councillor STEVENS:

- 1 *That the report be received and the information noted.*
- 2 *That this information be forwarded to all Local Federal and State Members on the Central Coast for their information and action.*

FOR: COUNCILLORS ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON, GRAHAM, PAVIER, STEWART AND VEUGEN.

The AMENDMENT was put to the VOTE and declared LOST.

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

RESOLVED on the motion of Councillor EATON and seconded by Councillor BEST:

- 1 That the report be received and the information noted.**
- 2 That this information be forwarded to all Federal Government members.**
- 3 That as part of this information being provided to Local Federal Members information be included that Mr Craig Thomson, Member for Dobell indicated in a public forum the pledge to introduce to Federal Parliament a private members bill to stop the coal mine.**
- 4 That Mr Craig Thomson, Member for Dobell be requested to advise when he will be introducing to Federal Parliament his private members bill to stop the coal mine.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, PAVIER, ROSE, STEVENS, STEWART AND VEUGEN.

AGAINST: COUNCILLOR WELHAM.

081 General Works in Progress Report

F2004/07830 JEM

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor PAVIER:

That the report be received and the information noted.

082 Works in Progress Report – Water and Sewerage

F2004/07830 KRG:DP

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor PAVIER:

That the report be received and the information noted.

083 Wyong Shire Library Statistics

F2004/11651 JM

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor PAVIER:

That the report be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

084 Outstanding Questions Without Notice and Notices of Motion

F2008/00003 MW:SW

RESOLVED *unanimously on the motion of Councillor GRAHAM and seconded by Councillor PAVIER:*

That the report be received and the information noted.

085 Notice of Motion – ICE (In Case of Emergency)

F2004/07516

RESOLVED *unanimously on the motion of Councillor PAVIER and seconded by Councillor WELHAM:*

That Council bring back a report on how this message can be transmitted within our present forms of media and educational training to the community. The report should canvass things such as community notice boards, website, shirewide, rate notice information and council's various community officers and workers.

086 Notice of Motion – Water Efficiency – Retrofitting Toilets

F2004/11989

RESOLVED *unanimously on the motion of Councillor EATON and seconded by Councillor BEST:*

That Council in consultation with the Joint Water Authority report on the possible replacement of the Refit program with a retrofitting program which subsidises the replacement of old single flush toilets with modern dual flush water efficient ones with significant water savings.

087 Notice of Motion – Geotextile Bag Investigations

F2007/00876

MS MARLENE PENNING, REPRESENTING THE ENTRANCE COAST CARE, ADDRESSED THE MEETING AT 8.05 PM, ANSWERED QUESTIONS AND RETIRED AT 8.25 PM.

RESOLVED *unanimously on the motion of Councillor BEST and seconded by Councillor EATON:*

That staff investigate and report on the emerging technology and use of geotextile sandbags for dune stabilisation as temporary/permanent solutions to assist in maintaining effective management of our estuary and coastal environments.

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

088 Notice of Rescission – Draft Development Control Plan (DCP) 2005: Chapter 36 – North Wyong Industrial Area and Draft Local Environmental Plan (LEP) 174

CPA/130590 WW:SS

COUNCILLOR EATON DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS SOLICITOR FOR LANDOWNER LEFT THE CHAMBER AT 8.35 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 9.05 PM.

COUNCILLOR VEUGEN DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS EMPLOYER HAS AN ASSOCIATION WITH THE LAND OWNER AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VEUGEN STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THERE IS NO CONFLICT WITH MY EMPLOYMENT."

RESOLVED on the motion of Councillor ROSE and seconded by Councillor STEVENS:

That the following resolution carried at the Ordinary Meeting of Council held on 26 September 2007 be rescinded:

- 1 That draft Local Environmental Plan 174 be referred to the Department of Planning under Section 69 of the Environmental Planning and Assessment Act requesting that the Minister for Planning make the plan.***
- 2 That draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area, as amended, be adopted by Council and become effective as at the date of gazettal of draft Local Environmental Plan 174 and to apply to all development applications lodged after the date of public notification.***
- 3 That appropriate public notice be given within 28 days.***
- 4 That a copy of Development Control Plan 2005 containing the amended Chapter 36 be forwarded to the Director General of the NSW Department of Planning within 28 days.***
- 5 That Council's 149 Certificates be noted.***
- 6 That all those who made submissions be advised of Council's decision.***
- 7 That a comprehensive review of Development Control Plan 2005: Chapter 36 North Wyong Industrial Area be undertaken by Council's Planning Legal and Policy Section as a matter of priority.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, PAVIER, ROSE, STEVENS, STEWART AND VEUGEN.

AGAINST: COUNCILLOR WELHAM.

RESOLVED unanimously on the motion of Councillor ROSE and seconded by Councillor STEVENS:

- 1 That draft Local Environmental Plan 174 be referred to the Department of Planning under Section 69 of the Environmental Planning and Assessment Act requesting that the Minister for Planning make the plan.**
- 2 That draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area, be adopted by Council and become effective as at the date of gazettal of draft Local Environmental Plan 174 and to apply to all development applications lodged after the date of public notification.**
- 3 That appropriate public notice be given within 28 days.**
- 4 That a copy of Development Control Plan 2005 containing the amended Chapter 36 be forwarded to the Director General of the NSW Department of Planning within 28 days.**
- 5 That Council's 149 Certificates be noted.**
- 6 That all those who made submissions be advised of Council's decision.**
- 7 That in order to ensure consistency of landscaping and setback provisions within industrial precincts in the vicinity of the North Wyong Industrial Area, a comprehensive review of DP 2005: Chapter 36 – North Wyong Industrial Area be undertaken as a high priority, including a comparative analysis of landscaping and setback provisions in other industrial areas.**
- 8 That in the comprehensive review of DCP 2005: Chapter 36, Council is of the opinion that the setbacks at North Wyong for all properties fronting the Pacific Highway should be of the order of approximately 15 metres.**

Minutes of the Ordinary Meeting of Council held on 27 February 2008 (contd)

QUESTIONS WITHOUT NOTICE ASKED**Q008 – Demolition of Burnt Out Houses in The Entrance Road and Bayview Avenue
Councillor Stewart**

F2004/00422

“I am seeking advice on what Council can do to have burnt out houses demolished in both The Entrance Road and at 18 Bayview Avenue?”

**Q009 – Application of Special Rate to Fisherman’s Wharf, The Entrance
Councillor Stewart**

RA/007838

“Can I have advice on the situation of the “special rate” of The Entrance being applied to the new Fisherman’s Wharf?”

**Q010 –Commencement of Council Meetings at the Allocated Time
Councillor Graham**

F2004/06496

“Could the Mayor ensure that future Council meetings commence at the allocated time?”

**Q011 – Effects of Dredging on Islands in The Entrance Channel
Councillor Pavier**

F2007/01516

“With regard to the islands in The Entrance Channel, directly west of the Entrance Bridge – have the dredging practices of Council undermined any of the vegetation root systems on those islands?”

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 9.16 PM.

.....
CHAIRPERSON

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WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

094 **Mayoral Minute – Performance Review**

F2004/07000

On 12 September 2007 Council resolved that a panel consisting of the Mayor and Deputy Mayor be formed to work with the General Manager to establish draft criteria for a performance agreement and to formulate a process of conducting future performance reviews.

The Department of Local Government issued “Local Government General Manager Performance Management Guidelines” late in 2007 and several meetings have now been held with the Deputy Mayor, myself and the General Manager. A performance agreement model and process has now been established and is outlined in this report (Attachment 1). This model and process is consistent with the Department’s guidelines (Enclosure 1).

I formally move:

- “1 That the performance management process for the General Manager as outlined in Attachment 1 be adopted.***
- 2 That Council delegate the whole process of performance management to the review panel.***
- 3 That Council nominate a Councillor to be part of the review panel.”***

Attachment 1 Performance Review model (3 pages)

***Enclosure Local Government General Manager Performance
Management Guidelines – August 2007***

Mayoral Minute – Performance Review (Attachment 1)

- 1 A review panel is to be established, as recommended by the Department of Local Government (DLG) guidelines. The panel is to consist of the Mayor, Deputy Mayor, one Councillor nominated by Council, one Councillor nominated by the General Manager and an external facilitator. The external facilitator is appointed by mutual agreement between Council and the General Manager and would be engaged for the term of the GM's contract in order to provide continuity over periods of Council elections and changes in appointment of the Mayor and Deputy Mayor.
- 2 Councillors not on the panel would provide written input (if they desired) prior to any appraisal sessions and such feedback would be distributed to all panel members and the General Manager prior to the session.
- 3 As recommended by DLG guidelines, the whole process of review is to be delegated to the panel including decisions on performance, actions to be taken and determination of a new performance agreement. A report in confidential session would be made to the full Council for their information. As pointed out by the Department's guidelines, this report should not be an opportunity to debate the results or re-enact the performance management of the General Manager. However, any issues relating to the GM's contract, including remuneration, would be decided by the full Council.
- 4 Any Councillor selected to take part in the panel should receive training on the performance management of General Managers.
- 5 The annual review is to be conducted by the end of July each year to review performance over the preceding financial year and to establish a new performance agreement, in line with Council's adopted Management Plan, for the current year. A mid period monitoring meeting is to be conducted in early February. This would be an opportunity to discuss progress against the objectives in the performance plan.
- 6 A performance agreement is to be drawn up between the Council and General Manager as outlined in the guidelines:

“Objectives and Measures

The performance agreement between the Council and the General Manager must set out expectations and the means by which performance against these expectations will be assessed. A new performance agreement should not be entered into until the previous year's performance review has been completed. The expectations in the performance agreement should be consistent with the General Manager's duties and functions as identified in the Standard Contract. The performance agreement should be realistic and achievable and the Council should provide adequate resources to enable the General Manager to perform his/her duties and functions.

12 March 2008
To the Ordinary Meeting of Council

Mayoral Minute – Performance Review (Attachment 1) (contd)

A fundamental component of any performance agreement is the ability to measure performance at both the organisational and individual level. This will require both quantitative and qualitative measures. In summary:

Organisational – Quantitative measures

There should be alignment between the strategic and management plans of the Council and the General Manager's performance requirements. It is important that the focus is not on subjective perception of performance but on objective reality. For this reason quantitative measures need to be part of the performance agreement.

Individual – Quantitative and qualitative measures

The individual performance of the General Manager will be both about the achievement of results (quantitative measures) and the display and modelling of organisational values and leadership behaviours (qualitative measures)."

- 7 The performance model to be used is the Critical Success Factor and Leadership Behaviour model, as outlined in the guidelines, plus key outcomes from Council's Management Plan.
- 8 The elements of the Wyong performance model would consist of:

Part 1: Critical Success Factors

These would include factors around organisation focus, operational performance and business process improvement and would be quantitative measures. Examples might include DA process times, customer service response levels and customer satisfaction (as far this is under the control of the General Manager).

Part 2: Leadership Behaviour

These are the desired leadership behaviours, achievement of effective leadership and communication practices and these are qualitative measures. The attributes currently used with the Directors and Managers would be used and include:

Decision Making/Assuming Responsibility/Dependability
Open Mindedness/Flexibility
Thoroughness
Achievement and Motivation
Work/Life Balance
People Management/Interpersonal Relations
Communication
Leadership
Commitment to Team/Negotiation/Conflict Management
Planning, Monitoring & Controlling and Reviewing

Mayoral Minute – Performance Review (Attachment 1) (contd)

Part 3: Key Outcomes

These would be identified from the annual Management Plan adopted by Council and would consist of a short list of outcomes that Council would identify as being of the utmost importance or ones that they want the General Manager to take a personal interest in. Some of the current Key Focus areas would probably be included, as well as a limited number from other areas of the Management Plan.

- 9 The General Manager is to undertake a written self assessment prior to the meeting, highlighting achievements and problem areas. This is an opportunity for the General Manager to identify activities and results achieved throughout the review period that the Council may not be aware of.
- 10 Other material may be used in the assessment process and this may include the results of Community Satisfaction Surveys, Employee Surveys, Reports on achievement of Council's Management Plan, etc.
- 11 Other details of the process would be in accordance with procedures, as outlined in the Department's guidelines.

WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

095 Changes To Developer Contributions in New South Wales

F2004/00552 PAB:PAB

SUMMARY

Reporting on the future changes to the way in which developer contributions are levied and collected in NSW. The changes were announced by the Premier late last year, but the Department of Planning is yet to develop detailed guidelines and legislation to support the changes. This report aims to provide Councillors with an indication of the impact the changes may have on Wyong Council's developer contributions programs and the impact of this on the Shire's community.

RECOMMENDATION

- 1 That Council call on the State Government to immediately halt the implementation of the new rules for development contributions until:**
 - a The Department of Planning releases the draft guidelines on the proposed changes to Section 94 contributions to enable Councils to properly assess the potential impacts on local communities.**
 - b All of these potential impacts on local communities, including both the economic and social ramifications have been properly considered and addressed.**
- 2 That Council endorse the actions of the Presidents and Executives of the Local Government and Shires Associations in mounting a campaign on the NSW Government's proposed planning changes, including both the issue of section 94 developer contributions and the recommendations in the Government's discussion paper, and preparing an alternative reform package as a basis for discussion with the Government, councils, stakeholders and the community.**
- 3 That Council consider making a contribution to the Local Government and Shires Associations' costs of engaging high level lobbying and media representation to formulate and assist with the implementation of a continuing public campaign, subject to the exact amount of contribution being brought back to Council for endorsement.**

Changes To Developer Contributions in New South Wales (contd)

History of Developer Contributions in New South Wales

Since 1979, the developer contributions system within NSW has undergone many reviews including a Commission of Inquiry in 1989 which set the framework for the current system that exists today. A summary of the history of the developer contributions system is detailed in the practice notes released by the Department of Planning in 2005. An extract from the Department's document is set out below:

"The funding of public infrastructure has changed substantially over the last 40 years, moving from traditional sources such as commonwealth, state and local government budget allocations to a mix of sources ranging from public private partnerships to developer charges and user pays charges.

The user pays philosophy underlying the funding of local infrastructure has existed in NSW since the 1940s when the planning process has had the ability to require developers to contribute to the provision of public facilities, the need for which arises as a result of the development. Legislation requiring a contribution towards the provision of public infrastructure was first codified as s94 of the EP&A Act.

Section 94 has been subject to review on a number of occasions in response to concerns raised by the development industry and local councils. The merits of maintaining the existing system and making improvements have been explored, as have alternatives that are more or less prescriptive than s94.

These reviews have included:

- the Simpson Inquiry of 1988/89. In general, the inquiry supported the power to levy contributions and described s94 as a 'special type of user pays tax'. Following the Commissioner's recommendation that councils prepare 'a structure/management plan', the provisions of s94 were amended in 1992 to require the preparation of development contributions plans. Such plans needed to be in place before a condition requiring a contribution could be included in a development consent. Such plans were seen in the context of the inquiry as identifying local needs and containing an implementation program for contributions and a fiscal strategy to enable proper administration.*

Changes To Developer Contributions in New South Wales (contd)

- *a Section 94 review committee which reported in 2000 and recommended a range of significant reforms. These were discussed with stakeholders and a range of alternative systems were canvassed that could provide for more flexibility in the system.*
- *following the formation of the Department of Infrastructure, Planning and Natural Resources in 2003, the Minister for Infrastructure and Planning and Minister for Natural Resources established a taskforce to look more closely at the way the s94 developer contribution system operated and in particular the alternative mechanisms by which planning authorities may obtain a development contribution.*

The Taskforce report supported the intent and function of a well administered s94 régime for funding local infrastructure. It also endorsed a number of improvements to the operation and accountability of the current system as well as the introduction of alternative approaches for obtaining development contributions.

The Taskforce focussed on those initiatives where it was considered that the most gains could be made and where the most effort was required to correct perceived deficiencies.

The Taskforce found that:

- *the original policy basis for levying developer contributions at the local level (s94) generally remained legitimate and sound, and that the current system should be maintained*
- *developer agreements and flat rate percentage levies could be alternative approaches in certain circumstances*
- *improvements to the operation and accountability of the current system were appropriate such as allowing for cross boundary levying; promoting consistency in the format of development contributions plans; ensuring regular review of development contributions plans; encouraging better accounting practices and the publication of data relating to the collection and expenditure of s94 funds*
- *a system could be developed to allow councils to borrow funds for the upfront acquisition of land identified in development contributions plans.*

Changes To Developer Contributions in New South Wales (contd)

The Taskforce recommendations also focussed on the review of the Section 94 Contributions Plans Manual to capture the new provisions, but also ensure that the contributions system improves public and financial accountability and governance.

The Taskforce recommendations have been implemented in the main through the legislative reforms to the contributions system and have led to the preparation of these practice notes."

Current Proposed Changes

In October 2007, the Premier of NSW announced a comprehensive overhaul to the way that contributions from development in NSW are administered for State and local infrastructure.

On 6 November 2007, the Department of Planning released a Planning Circular providing Councils, relevant State agencies and the community with early advice of the changes to the setting and collection of infrastructure contributions in NSW.

The Planning Circular provided the following list of facilities that Councils would be able to collect Section 94 or Section 94A contributions for in the future:

- Local roads
- Local bus infrastructure
- Local parks that service a development site or precinct
- Drainage and water management expenses
- Land and facilities for local community infrastructure that services a development site or precinct
- Land for other community infrastructure and recreation facilities.

The circular also states that all other costs, such as facilities benefiting existing communities (including Council and district wide community and recreation facilities), can no longer be recovered through local contributions.

Changes To Developer Contributions in New South Wales (contd)

The circular also flagged the State Government's intention to introduce State infrastructure contributions to greenfield areas identified in Regional or Subregional Strategies, the Metropolitan Development Program or in an approved local strategy to fund 75% of the State costs for the following:

Infrastructure item	Previous approach	New approach
Roads	√	√
Rail	√	√
Bus	√	√
Emergency and Justice	√	Land only
Health	√	Land only
Education	√	Land only
Regional open space	√	Land only
Planning and delivery	√	√

Other major changes identified in the planning circular are:

- All future greenfield release areas in NSW will have a single combined State and Local infrastructure contribution to be collected in two stages:
 - A rezoning infrastructure contribution applying to the purchaser at the time land is first sold following rezoning or approval of a development application to recover 25% of the State and Local infrastructure costs.
 - A serviced infrastructure contribution payable by developers upon release of subdivision or occupancy certificates to recover the remaining 75% of the State and Local infrastructure costs.
- Section 94 and Section 94A contributions from developments within the growth centres (included in the LGA's of Baulkham Hills, Blacktown, Camden, Campbelltown, Hawkesbury and Liverpool) shall be held separately under Trust by NSW Treasury on behalf of Councils and Councils can draw on these funds based on approved section 94 and section 94A plans, subject to the funding being spent within the timetable of the approved plan. The circular also states that the NSW Government may consider collecting and holding section 94 and section 94A contributions for greenfield development outside the growth centres on a case-by case basis.

Changes To Developer Contributions in New South Wales (contd)

The circular states that the Minister for Planning would issue guidelines to advise the categories of infrastructure costs to be funded from local contributions and inform Councils of the commencement of the new arrangements. At the time of preparing this report, the above guidelines had not been issued.

Ministerial Direction issued under s94AEE to the Growth Centres Councils

In January this year, the Department of Planning released a direction and explanatory note providing more details of the impact of the changes for the growth centres. It is important to note that the direction and explanatory note only apply to the growth centres; however, they may provide Council with an indication of what could apply to Wyong Shire in the future. It is for this reason that a summary of the contents of those documents is provided.

The Direction again provides a list of facilities that can be funded from Section 94 and Section 94A, although the list varies slightly to the list contained in the planning circular from November 2007. The list for the growth centres is provided below:

- Local roads
- Local bus infrastructure
- Local parks
- Drainage and stormwater management works
- Capital costs (including land) associated with local community infrastructure
- Land for other community infrastructure and recreation facilities, excluding land for:
 - Facilities required as a result of demands arising from existing populations or population growth;
 - Council-wide community facilities;
 - Council-wide recreation facilities;
 - Acquisition of land for riparian corridors unless the acquisition will satisfy the need for local parks or is required for drainage or stormwater management purposes.

The Direction also states that the time for acquisition of land, or physical commencement of works where there is no land acquisition, must be no greater than seven years from the commencement of the contributions plan.

Changes To Developer Contributions in New South Wales (contd)

An explanatory note accompanying the Ministerial Direction provided the following table that gives greater clarification of the types of facilities that may be included in contribution plans:

1. Public amenities and public services which may be included in New Contribution plans and Amending Contribution plans	
Category	Example
Local Roads	<p>Local roads (including creek crossings, cycle facilities, roundabouts and the like) required to service a development site, precinct or precincts.</p> <p>Local roads adjoining a development site, precinct or precincts required to connect into the wider road network. Where such connecting roads are required to be constructed to provide a level of service to cater for existing residents as well as new development, the costs to be appropriately apportioned. For example, a two lane road is required to connect the development site or precinct to the wider road network but existing residents would want to use the road to access a new town centre and as a result, a higher level of service (eg; four lane road) would be ultimately required. Council could only levy for the two lane road. Council would separately fund the difference required to provide the additional two lanes.</p> <p>The full construction of a proposed arterial road to collector road standard only where the road is required to cater for the new development. Ultimate upgrades to arterial standard are to be undertaken from alternative sources.</p> <p>The upgrade of local traffic facilities within and adjacent to a development site, precinct or precincts that are required to service a development site, precinct or precincts.</p> <p>Upgrade works include the reconstruction of local roads, the upgrade and reconfiguration of intersections and access routes, including signalisation required for a development site, precinct or precincts.</p> <p>Landscaping associated with local roads.</p>
Local bus infrastructure	Bus stops, shelters, hard stand areas adjacent and ancillary works to serve a development site, precinct or precincts, but not a bus depot or interchange facilities.
Local Parks	<p>Local Parks that would serve a development site, precinct or precincts, including costs associated with providing parks such as land acquisition, playgrounds, utilities servicing, landscaping, paths, drainage and the like.</p> <p>Local level sports facilities and amenities including turf, asphalt or synthetic playing surfaces, irrigation facilities, sports field lighting, amenities blocks (including toilets and change rooms), canteens, storage facilities, picnic shelters, playgrounds (synthetic soffit), pathways, car parks and the like.</p>
Drainage and stormwater management facilities	Land and works required for stormwater drainage to ensure post development stormwater flows are not to a lesser standard as the stormwater flows in the area prior to a new development occurring.

Changes To Developer Contributions in New South Wales (contd)

Category	Example
Land and facilities for local community infrastructure	Facilities to meet the demand created by a development site or precinct. Where possible these facilities should be located within the development site or precinct or in close proximity to the development site of precinct. For example: library, community centre (including neighbourhood centre).
Land for other community infrastructure and recreation facilities	Land for other community infrastructure and recreation facilities that may meet a greater demand than created by a development site, precinct or precincts, excluding acquisition of land for riparian corridors unless the acquisition will satisfy the need for local parks or is required for drainage or stormwater purposes
2. Public amenities and public services which <u>may not</u> be included in new contribution plans or amending contribution plans	
Category	Example
Council-wide facilities	Facilities that service the whole local government area (i.e. normally only one such facility would be provided in the local government area) For example: administration centre, cultural or civic centre, performing arts centre, theatre, arts centre or regional library
Council-wide recreation facilities	Sports stadiums, regional or district sports grounds and recreation facilities that will serve the existing population. Note: Facilities that require a large population base (e.g. public swimming pool) would be not able to be included in a new contributions plan or an amending contributions plan unless it can be demonstrated that the facility is required exclusively to service a need arising from new development.
Facilities that benefit the existing rate base or are required as a result of population growth.	Administration buildings, regional libraries, higher order cultural or civic centres, performing arts centres, theatres and regional arts centres.
Land for riparian corridors	Acquisition of land for riparian corridors unless the acquisition would satisfy the need for local parks or is required for drainage or stormwater purposes.

The Direction states that a development site, precinct or precincts is an area within the growth centre of up to no greater than 25,000 lots.

Changes To Developer Contributions in New South Wales (contd)

Potential impact on Wyong Council's Section 94 programs

As mentioned earlier, the Department of Planning is yet to provide more details of the changes to the Section 94 system as they will relate to Wyong Council. Staff have made many representations (both written and verbal) to the Department of Planning seeking clarification of the contents of the planning circular and its impact, particularly on current draft plans for the Warnervale Town Centre and the Wyong Employment Zone. At the time of preparing this report, no clarification had been received from the Department.

If it is assumed that the Direction given to the growth centres will ultimately also apply to Wyong Shire, there a number of high profile projects that may not be able to be funded from Section 94 funds. These include the Performing Arts Centre, the Warnervale Aquatic and Leisure Centre and the Link Road.

A list of projects proposed to be funded by Section 94 over the next five years that could be affected by the proposed changes to Section 94 legislation is shown below:

Description of Project	Value of Project (over next 5 financial years)	Value of Project to be funded from Section 94
Warnervale Knowledge Centre (including a library)	\$10,000,000	\$10,000,000
Warnervale Aquatic and Leisure Centre	\$26,145,078	\$22,223,316
Warnervale Links to Health Medical Centre	\$2,000,000	\$2,000,000
Warnervale Integrated Child and Family Centre	\$3,000,000	\$3,000,000
Regional Performing Arts Centre	\$23,000,000	\$7,478,621
Bateau Bay Library Expansion	\$4,898,000	\$4,898,000
Library Stock	\$2,332,935	\$2,236,785
Public Art Commissions	\$200,000	\$63,315
San Remo Extreme Sports Facility	\$979,400	\$479,400
Shire Wide Cycleway Network	\$2,615,595	\$2,507,830
Recreation Strategy	\$120,000	\$115,056
Salt Water Creek Regional Park	\$500,000	\$479,400
Wadalba Environmental Corridor embellishment	\$520,000	\$520,000
Link Rd (Railway Rd)	\$32,500,000	\$27,000,000
Sparks Rd/Hiawatha Rd intersection improvements	\$100,000	\$100,000
Sparks Rd/Burnett Rd intersection improvements	\$5,461,485	\$1,638,446
Sparks Rd/Mountain Rd intersection improvements	\$5,461,485	\$1,638,446
Sparks Rd/Jack Grant Dr intersection improvements	\$4,369,188	\$1,310,756
Regional Stormwater storage area	\$2,463,100	\$2,051,989
Integrated Water Cycle Management Regional Pipelines	\$8,104,559	\$3,971,537
Salaries and Administration Costs	\$2,043,725	\$2,043,725
Total	\$157,814,550	\$95,756,622

Due to the uncertainties over Council's ability to fund these projects in the future, a number of these projects will need to be deferred until such time as the Minister provides more details of the changes, including legislative changes.

Changes To Developer Contributions in New South Wales (contd)

Other potential major impacts on Wyong's developer contribution program and projects are:

- 1 The possibility of the NSW State Treasury holding Section 94 funds collected for major greenfield areas eg the Warnervale Town Centre and the Wyong Employment Zone. If this occurs, there will be uncertainty over when Council will be able to access the funds required to construct the necessary infrastructure.
- 2 The requirement that only land and works to be acquired or commenced within seven years of the commencement of the plan can be included in a contributions plan. This has the potential of removing several long term projects from the contributions plans including road and intersection upgrades that are not required immediately. This will have the effect of reducing contributions in the short term, but in the longer term, the contributions would increase as the works are included in future amendments to the contributions plans.
- 3 There is no discussion in any of the Department of Planning's documents on how to deal with projects that can no longer be funded from Section 94 when Councils may have been collecting for these projects for some time. Possible examples of these projects are the aquatic centre and the Link Road. Both projects have been included in the Warnervale contributions plan for many years. If Council can no longer collect contributions for these projects, it will be forced to decide whether to abandon the projects or seek alternate funding sources to fund the shortfall created by the changes to the legislation. There is also the potential that the Government may require these contributions to be repaid to the original contributor.

Local Government and Shires Association

The Local Government and Shires Association has begun a campaign to raise awareness of the likely impacts of the changes. It has also requested the Government to halt the implementation of the changes until all of the social and economic implications have been addressed.

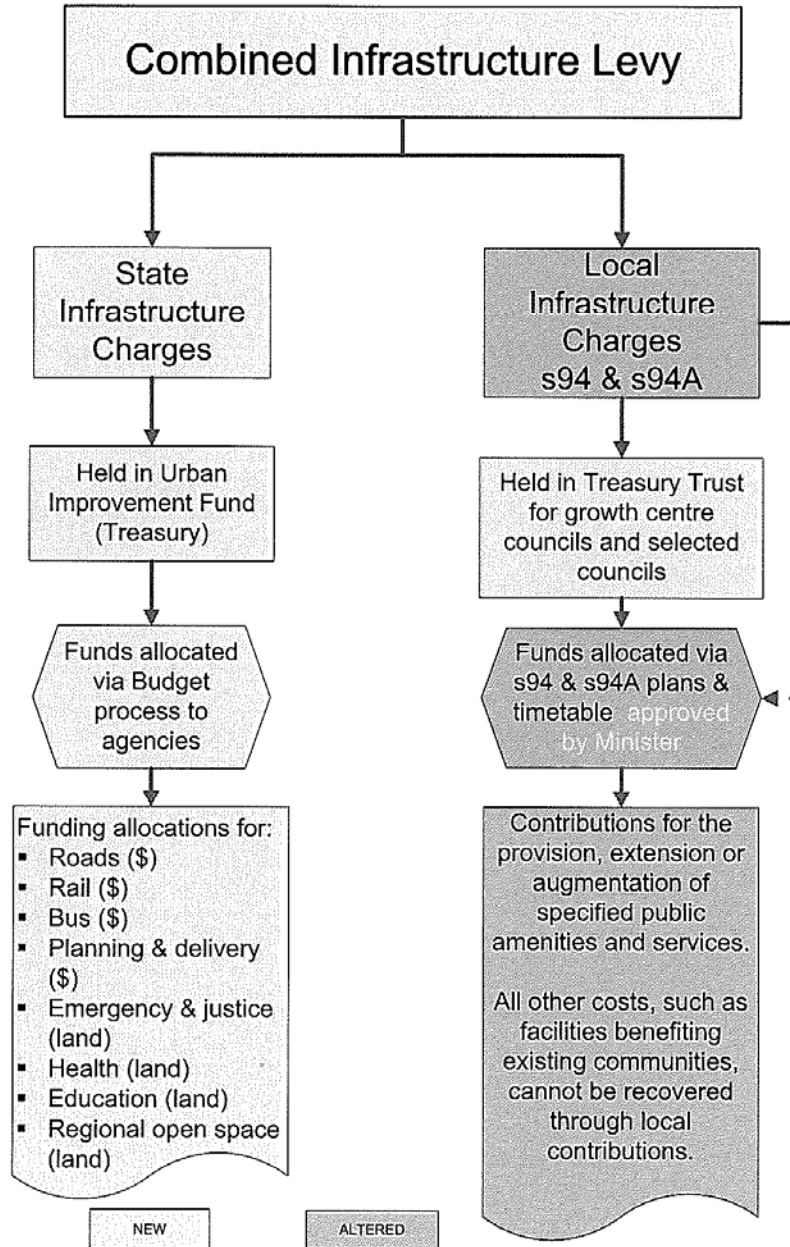
A forum of Mayors, Councillors and Council staff was held in Sydney on 30 January 2008 to discuss the impact of the changes on Local Government. A copy of the key messages to come from that forum, together with diagrams of the revised framework for contributions presented to the forum is attached.

<i>Attachment 1</i>	<i>Revised Framework for Developer Contributions (1 page)</i>
<i>Attachment 2</i>	<i>Revised Framework for Developer Contributions – Growth Centres (1 page)</i>
<i>Attachment 3</i>	<i>Key Messages (1 page)</i>
<i>Enclosures</i>	<i>Letter from the Hon Frank Sartor MP Submission from Local Government Association Planning Changes: Outcomes of Leaders Forum Letter from Nick Ebbeck, Mayor, Ku-ring-gai Council</i>

Changes To Developer Contributions in New South Wales (Attachment 1)

Revised Framework for Developer Contributions

REVISED FRAMEWORK FOR DEVELOPMENT CONTRIBUTIONS



Changes To Developer Contributions in New South Wales (Attachment 2)**Revised Framework for Developer Contributions – Growth Centres****REVISED FRAMEWORK FOR
DEVELOPMENT CONTRIBUTIONS
GROWTH CENTRES**

Amenities and services that CAN be included in new contributions plans or amending contributions plans:

- Local roads to service development or to connect to wider road network
- Local bus infrastructure
- Local parks that service a development site or precinct & local level sports facilities and amenities
- Drainage & stormwater management facilities
- Land and facilities for local community infrastructure that services a development site or precinct
- Land for other community infrastructure & recreation facilities

Amenities and services that CANNOT be included in plans:

- Council-wide facilities e.g. administration centre, cultural or civic centre, performing arts centre, theatre, arts centre or regional library
- Council-wide recreation facilities – sports stadiums, regional or district sports grounds and recreational facilities serving existing population
- Facilities that benefit the existing rate base or are required as result of population growth - administration buildings, regional libraries, higher order cultural or civic centres, performing arts centres, theatre and regional arts centres.
- Land for riparian corridors

Changes To Developer Contributions in New South Wales (Attachment 3)

Key Messages

Local Government
Association of NSW



Shires Association
of NSW

Key Messages

Proposed Changes by State Government to Development Contributions
November 2007

The State Government is changing the rules on development contributions, depriving councils and communities across NSW of hundreds of millions of dollars for basic social infrastructure such as libraries, sporting facilities and child care centres.

This is despite councils across the state already facing a \$6.3 billion infrastructure backlog.

What are councils currently providing?

- High quality, centrally located community and recreational facilities – such as multi purpose indoor centres, libraries and child care centres.
- These facilities make economic sense and follow best practice planning principles.

What will the changes mean?

- Development contributions can only be collected to fund roads, drainage and water management expenses, local bus infrastructure, parks and community infrastructure that service an *individual development site or precinct*.
- The State Government will take control of the funds councils collect.

What are the implications of the changes?

- A return to the days of the 'pocket parks' and low quality, uneconomic and fragmented community facilities.
- The deferring or cancelling of major new infrastructure projects in LGAs with major new land releases.
- The deferring or cancelling of planned upgrades to existing facilities.
- The State Government controlling funds traditionally managed by councils and their communities.

What are the potential impacts on councils in low growth areas?

- Many of these councils currently use a 1% levy on new developments to fund extensions and upgrades to existing facilities such as sporting fields, pre schools and senior citizens centres.
- The new rules may restrict councils' ability to provide new or upgraded community facilities.
- This will result in overcrowding and increased pressure on existing facilities.

The State Government claims the shortfall will be picked up through councils' rate revenue. The truth is:

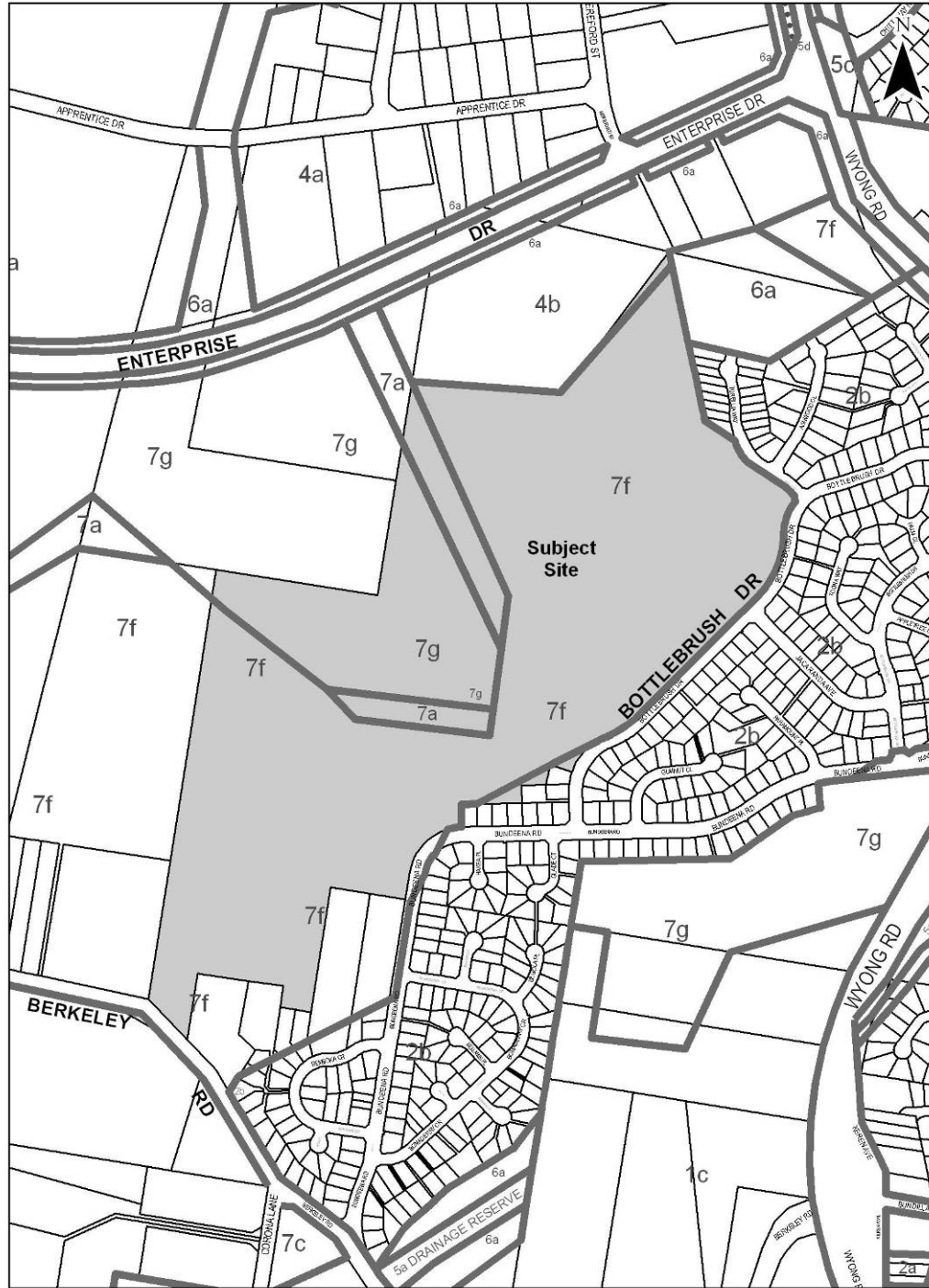
- Councils are financially stretched and simply do not have the money to pick up the shortfall.

What is the solution?

- Councils are calling on the Government to immediately delay the implementation of the new rules for development contributions until all of the impacts on NSW communities have been properly addressed.

096 Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 1)

Locality Plan



WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

**096 Proposed Wholesale and Retail Plant Nursery and Associated
Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning
Valley**

DA/611/2006 DAL:DAL

SUMMARY

An application has been received for clearing, cut and fill, construction and operation of a wholesale and retail nursery, water management system and associated buildings and facilities on land at Bundeena Rd, Glenning Valley. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment (EP&A) Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report. Following consideration of these matters and the likely environmental impacts of the development as proposed, the application is recommended for refusal.

Applicant Owner	Planning Workshop Australia Tuta Products Wellington Point Pty Ltd Arminella Pty Ltd CMF Properties Pty Ltd Silkdean Pty Ltd
Application No Description of Land	DA 611/2006 Lot 2 DP 1100181 - Bundeena Road, Glenning Valley Previously Lot 3000 DP 815746
Proposed Development	Wholesale and retail plant nursery - including vegetation clearing, cut and fill, water management system and associated buildings, facilities and access
Site Area Zoning	38.182 hectares 7 (a) – Conservation Zone 7(f) - Environmental Protection Zone 7(g) - Wetlands Management Zone 2(b) - Multiple Dwelling Residential Zone Development area entirely within 7(f) portion of site
Existing Use Employment Generation Value	Vacant land Estimated 40 full-time equivalent staff \$1.95 million

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

RECOMMENDATION

- 1** *That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours refusal of the application for the reasons outlined in the report.*
- 2** *That those who made written submissions be advised of the decision.*

PRECIS

- Development of the land for a plant nursery is permissible with Council's consent in the 7(f) Environmental Protection Zone.
- The development will result in the clearing of at least 6.5ha of high quality vegetation (including ~50 hollow bearing trees) and will have significant impacts on an additional 6.9ha of native vegetation (total 13.4ha).
- The lot forms part of a sub-regional wildlife corridor identified under a previous Council planning strategy. The lot adjoins a Council reserve containing a State Environmental Planning Policy (SEPP) 14 Wetland, an Endangered Ecological Community (EEC) and which forms part of the formal Property Vegetation Plan (PVP) entered into with the Hunter-Central Rivers Catchment Management Authority (CMA) on which Council is currently managing approximately \$450,000 of bushland rehabilitation works.
- No water recycling is proposed. The application proposes the release of treated wastewater into the environment downstream of the nursery.
- Council does not have certainty that the development, as proposed, has the ability to mitigate the environmental impacts of the nursery operation.
- The development may result in the equivalent of 40 full-time jobs.
- 165 objections were received following notification of the original application and a further 67 objections received following notification of the amended proposal (a total of 232 objections). It is further noted that there were additional multiple submissions from a number of individuals and organisations.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

INTRODUCTION

The Site

The subject lot is a 38.182ha irregularly shaped parcel of land with frontage on the eastern side to the Glenning Valley residential area and extending to Berkeley Road to the south. The proposed development is located on the northern part of the site and provision for access has been made via Blade Close (currently under construction) onto Enterprise Drive. The subject site has multiple zonings, with the proposed development area zoned entirely 7(f) - Environmental Protection Zone. The well vegetated site is located above the floodplain and adjoins protected wetlands directly to the south-west owned by Council for community and environmental purposes.

The development footprint has been located away from the existing residential development to minimise social and noise impacts, however this has resulted in the location of the development generally over significantly better quality vegetation and closer to the EEC and wetland on the adjacent Council property, rather than on the somewhat degraded land in the northern extent of the property.

Physical Characteristics

The area of the subject lot containing the proposed development is characterised as the higher slopes of the local topography, predominantly oriented to the south-west and with a slope of 8-9%, terminating in wetland areas to the west and south of the proposed development site. The site is covered in generally high quality vegetation described as Blackbutt Open Forest, with intact ground layers, understorey and canopy. There is some evidence of disturbance related to informal trails, some fill and a low incidence of weeds along the edges.

The site is immediately to the east, and hydrologically above, an extensive existing wetland consisting predominantly of an EEC, Freshwater Wetlands on Coastal Floodplains, mapped under SEPP 14 - Coastal Wetlands and owned by Council. Vegetation surrounding the wetland itself is considered to form the EEC Swamp Sclerophyll Forest on Coastal Floodplains (SSFCF) and this extends onto the subject property, approximately 100m below the proposed development site.

Fieldwork conducted for the development application indicates 67 native fauna species have been encountered on the site which also provides potential foraging, or roosting and breeding habitat for a range of both threatened and more common species. The proposed development footprint contains at least 50 hollow bearing trees with a variety of hollow sizes suitable for a range of fauna (no detailed plan of hollow bearing trees has been provided). The site is noted as Bushfire Prone Land; however, as the proposal is for non-residential purposes, a formal referral to the Rural Fire Service is not required.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The Proposed Development

The application seeks to clear 6.5ha of the site containing predominantly high quality vegetation (Black Butt Open Forest), perform extensive earthworks including the reshaping of the entire development site, construction of two dams, and construction of a wholesale and retail nursery operation.

The proposed nursery consists of four buildings containing shade houses, retail space, administrative areas and servicing facilities. The buildings are joined by entry canopies and the buildings themselves total approximately 3,500m² of floor space. A further 7,700m² of external retail area is available where plants can be displayed and an additional area of approximately 24,000m² forms the wholesale plant growing area. There is an additional 3,200m² of area provided for bulk landscape supplies.

The amended submission indicates that 268 carparking spaces will be provided, including 124 overflow spaces to the south-eastern part of the site. The access and carparking will be required to accommodate heavy vehicles including semitrailers.

The nursery would be accessed via a 20m right-of-carriageway extending from Blade Close, which in turn joins Enterprise Drive. Blade Close is currently being constructed in accordance with a previous development consent (DA 563/1993/A) and the intersection with Enterprise Drive is currently required to be of Type B construction. The volume of traffic generated by the proposed nursery would require the intersection to be upgraded to a Type CH "channelised seagull intersection".

A key issue on the site is the need to manage water on the site to maintain pre-development flows to the retained bushland and maximise the water available for use by the nursery to reduce demand on Council's potable water supply. Due to the particular characteristics of the development site (vegetation types, slope, topography etc) there is a particular need to focus on the ultimate impacts of the proposed development with regard to water management.

The final proposed water management system states that 28 ML of water per year is required to adequately service the nursery. The system seeks to harvest up to 18 ML of water from the roof and carpark areas of the site per year, storing this in four retention tanks totalling 2.35 ML. The proposed system would require a minimum of 10 ML per year (or 52.7 ET) of water to be sourced from Council's potable water supply during an average year. The proposed system does not seek to recycle water captured from pervious areas or nursery operations for reuse as irrigation water. The applicant considers it is not viable to treat run-off water from the nursery to the required standard where it could be reused, however considers that treatment will be adequate to release this water to the sensitive surrounding environment.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Run-off from the nursery retail, growing and bulk landscape supplies areas would be directed to two proposed detention ponds for treatment and then released onto the adjoining bushland, in conjunction with water captured from the retained bushland on the northern part of the development site. It is an unacceptable risk to the sensitive receiving environment to rely on potentially polluted flows.

Council has required the submission of significant information regarding the operation and management of the nursery, including a draft Nursery Plan of Management (POM), in order to assess the likely impacts of the proposal. This information has not been provided to Council's satisfaction.

HISTORY

Council originally zoned the subject land and adjoining lands 7(f) - Environmental Protection Zone in 1985 for the purpose of creating a noise buffer zone between the Berkeley Vale West Industrial Area and the Berkeley Vale West residential area (now referred to as Glenning Valley).

Following the introduction of this zone, there had been a number of enquiries and attempts to have portions of the subject site rezoned for other purposes, particularly with the intent of extending residential development west of Bottlebrush Drive. Council files show an extensive history of investigations and negotiations regarding these proposals, particularly focussed on the environmental constraints and likely noise impacts on any future residents. Flora and fauna investigations conducted by Conacher Travers in 2003 subsequently formed the basis of the original environmental assessment information for the current application.

DA 563/1993 approved to subdivide the adjoining 4(b) Light Industrial Zoned lot to the north for industrial purposes. This consent has physical commencement and was amended in October 2006 (DA 563/1993/A) to provide suitable access to the subject lot. The subdivision is currently under construction.

A summary of the current application is attached.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

STATUTORY REQUIREMENTS**Clause 5A – EP&A Act(1979)**

This clause details the requirements for Council to consider development that is likely to have a significant impact on Threatened Species, Populations and Ecological Communities and requires (in conjunction with Clause 78A) the submission of Seven-Part Tests and suitable Species Impact Statements (SIS) where applicable. Council accepts the validity of the Eight-Part Tests (regulations have changed during the period of the application) originally submitted with the application.

However, following evidence of the likely use of the site by koalas and the subsequent addition to the Department of Environment and Climate Change (DECC) Wildlife Atlas, Council requested the preparation of appropriate Seven-Part Test and potential Species Impact Statement (SIS) with respect to this threatened species. No additional surveys were undertaken by the applicant and there is no detail in the submitted reports demonstrating that spotlight transects were targeted in likely koala habitat areas, or that specialist koala survey techniques were used. Council is unable therefore to reasonably determine the likely impact on a possible koala population or to form a reasonable judgement as to whether the concurrence of DECC is required. Given this, the impacts of the development are uncertain and unquantified, which does not give Council enough certainty to consent to the development.

Clause 78A (8) (b) - EP&A Act(1979)

(8) A development application must be accompanied by:

- (b) if the application is in respect of development on land that is, or is a part of, critical habitat or is likely to significantly affect threatened species, populations or ecological communities, or their habitats—a species impact statement prepared in accordance with Division 2 of Part 6 of the Threatened Species Conservation (TSC) Act 1995 .*

As noted above, the applicant has not submitted the relevant Seven-Part Test with respect to a potential koala population on site, nor supported the assertion of non significance by suitable fieldwork and analysis. Council cannot therefore be reasonably satisfied that this section of the legislation has been adequately observed, nor that formal concurrence of DECC is not required.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Wyong Local Environmental Plan (WLEP) 1991

Clause 2 – Aims, objectives etc

The relevant aims and objectives are reproduced below:

- (1) *In accordance with the objects of the Act, the overall aims of this plan are -*
 - (a) *to promote the management, development, conservation and economic use of the resources of the Shire of Wyong and to protect the amenity of its environment; and*
 - (b) *to provide a comprehensive planning instrument for the Shire that is clear and explicit but which provides flexibility in its application, and*
 - (c) *to facilitate and encourage ecological, economic and social sustainability.*

Council must be convinced that development of the site provides an appropriate balance between development and conservation, to protect the amenity of the environment, and to facilitate Ecologically Sustainable Development (ESD). As discussed above, the proposed development involves clearing 6.5ha of native vegetation, directly impacting on a further 6.9ha (13.4ha total) and isolating an additional 2.1ha of Council reserve land without offering any vegetation offsets. It is incumbent on Council to ensure that public assets are not unnecessarily degraded by private development thereby transferring a cost to Council and undermining the satisfaction of ESD.

Therefore, it has not been demonstrated that the aims of WLEP 1991 have been satisfied.

It is considered that the Objectives of WLEP 1991 have been satisfied with relation to employment and economic development (b), but that objectives relating to environmental protection and vegetation management have not been satisfied (g & j).

Zoning and permissibility

The proposed nursery development is located within the 7(f) - Environmental Protection Zone. The objective of the zone is:

The objective of this zone is to restrict the type and scale of development which will be carried out on land adjoining major noise generators (or other development with similar detrimental impact) to that compatible with such environments.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

As discussed above, this particular zone was introduced in 1985 with the purpose of providing an acoustic buffer between residential and industrial areas in the Berkeley Vale West area. It is clear that the operation of a large wholesale and retail nursery will not be significantly impacted by noise generated in the industrial area and that residential noise standards would be inappropriate to be applied to impacts on the nursery.

Compliance with the zone objectives therefore needs to be considered in the context of whether the proposed development would significantly impact on the ability of the buffer area to mitigate noise impacts on adjoining residential areas. Council's Environmental Health Officer has reviewed the acoustic report (Heggies Pty Ltd, March 2007) and has concluded that the nursery would be able to operate in accordance with the Environment Protection Authority (EPA) Industrial Noise Policy and RTA Environmental Criteria for Road Traffic Noise, and therefore there will be no significant noise impacts on surrounding residential areas generated as a result of nursery operations.

With respect to the type and scale of development permissible, agriculture, dams, drainage, nutrient control facilities and plant nurseries are all permissible uses with development consent. The scale of the proposed 6.5ha nursery can be considered with relation to existing nursery operations within the Shire.

Three large nurseries in operation are:

- Burbank Nursery (Kangy Angy) ~6.0ha – established 1970's and no residential areas adjacent;
- Big Flower (Ourimbah) ~2.9ha – established 1993 around the period of development of the adjacent Burns Rd residential area;
- Summerland Nursery (Summerland Point) ~3.0ha – established 1987 and no adjacent residential areas.

The applicant has also made submissions regarding the development of a large nursery in Ryde Council area (Eden Gardens), particularly with regard to Council's ability to use development consent conditions to mitigate environmental impacts. It is noted however that this particular garden centre is on a total site of 2.5ha, is not adjacent to residential development, drains predominantly to the M2 Motorway, has a large proprietary water management system including clarification and infiltration through a hydrocyclone filter and is largely retail-based with no plant stock grown on site. This example is therefore not considered to be analogous to the proposed development.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Overall, the proposed development would be the largest nursery operation within Wyong Shire. There are no specific guidelines as to what would constitute appropriate type and scale of development in this zone detailed within Council's planning framework. Noise generation by the proposal should not create significant ongoing impacts on surrounding residential development, and it is therefore considered that the zone objectives have been met. The type and scale of the development with relation to environmental impacts and other planning instruments, other than the zone objective, is considered separately within the report.

Clause 28 - Tree Management

This clause provides regulatory weight and direction as to vegetation management and sets the criteria Council uses for the determination of vegetation modification. The clause requires the submission of sufficient information to enable Council to make an assessment of the importance of the vegetation. As detailed below, insufficient vegetation management information has been provided in support of the application, particularly with regard to the number, type and location of hollow bearing trees and the habitat potential for koala species. The lack of preliminary engineering details regarding the location, size and construction of the various water management elements (in particular the detention ponds and swale systems along the western side of the development) in combination with the slope of the site also suggests that direct impacts on additional vegetation may be likely to occur during the construction phase or as a result of significant earth batters required to retain these structures.

Based on the level of clearing of remnant bushland and the potential impacts of the development on the remaining vegetation on the site and adjacent Council reserve, it is considered the development is inconsistent with Clause 28.

For a detailed assessment of the requirements of Clause 28 please refer to the assessment under Chapter 14 of Council's DCP 2005 below.

COUNCIL POLICY AND STRATEGIC IMPLICATIONS

Development Control Plan 2005 Chapter 14 – Tree Management

The chapter supports Clause 28 of WLEP1991 and provides a greater level of detail with regard to vegetation management. The information provided in support of the application is inadequate with respect to tree survey information, habitat potential and details regarding the significant water management infrastructure. A summary table detailing an assessment of the proposal against the requirements of Section 3.4 of the Chapter is produced as Attachment 2.

Based on this assessment, it is considered that the application fails to satisfy the requirements of this chapter and the application cannot be supported.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Development Control Plan 2005 Chapter 69 – Waste Management

No formal Waste Management Plan (WMP) has been submitted in support of the application to deal with removal of rubbish on site, vegetative waste associated with clearing and waste associated with the ongoing operation of the site, as required by Section 2.0 of the Chapter. Council has requested several times that a sufficiently detailed WMP be provided in support of the application. Section 3.0 provides guidance on required information to be submitted and references Council's Waste Management Guidelines. The guidelines require a range of information to be submitted dealing with all stages of clearing, earthworks, construction and operation of developments, including the specific details to be provided on plan drawings for stockpile areas and access etc.

The applicant states that such matters are more appropriately dealt with at Construction Certificate stage and has provided general guidance only. As considered elsewhere within the report, the specific site constraints and sensitivity of the receiving catchment, and the general lack of detail regarding vegetation management and major earthworks on site further emphasise the need for a suitable WMP.

Therefore, based on the above consideration of factors under Chapter 69 of DCP 2005, it is considered that the application fails to satisfy the requirements of this chapter and the application cannot be supported.

Developer Contribution Plan

The application is considered under the South Lakes Contribution Plan and applicable water (52.70 ET) and sewer (3.40 ET) contributions apply under the Water Management Act.

VARIATIONS TO POLICIES

Nil.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

ECOLOGICALLY SUSTAINABLE PRINCIPLES

As noted above, there is significant legislation that requires Council to have regard to the principles of ESD. Council's recent experience and other relevant judgements in the Land and Environment Court have upheld the relevance and importance of the ESD principles and their role in the decision-making processes of consent authorities. In particular, where there is a lack of certainty, the decision-maker must apply the precautionary principle and avoid, where possible, serious and irreversible damage to the environment.

As detailed under the Act, ESD can be addressed through the implementation of the following principles:

- a) *the precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*
- b) *inter-generational equity, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations;*
- c) *conservation of biological diversity and ecological integrity, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration;*
- d) *improved valuation, pricing and incentive mechanisms, namely, that environmental factors should be included in the valuation of assets and services.*

Economic

The application would provide additional local employment, with the applicant stating approximately 40 full-time equivalent positions would be generated once the nursery is operational. This would be a significant benefit to the local community, as would be the addition of further wholesale and retail nursery facilities.

As noted elsewhere in the report, Council has recently entered into a PVP with the Hunter - Central Rivers CMA to expend significant monies restoring public lands on the floodplain directly below the development site. The lack of information provided to support the application, level of clearing proposed and the nature of the activity mean there is a likelihood of negative environmental impacts on the floodplain. As evidenced from recent development on the floodplain within the local area (Apprentice Drive), simply clearing the site in accordance with strict development consent conditions is likely to generate significant weed encroachment, hydrological changes and modification of high quality vegetation outside the development footprint.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

It has not been demonstrated that significant public sector maintenance and restoration costs will not result from the proposed development application. Equity principles, both within and between generations, need to be considered with respect to the likely costs and benefits flowing from development decisions and ensure that immediate economic benefits (development, employment etc) are not outweighed by future costs to remediate likely impacts of the development.

The application of ESD generally involves internalisation of environmental costs into decision making for development plans likely to affect the environment, and includes both short-term and long-term external environmental costs. This has not been achieved by the current proposal by, for example, providing significant vegetation offsets in exchange for the clearing and modification of existing vegetation.

The proposed water management system has not been designed to ensure the 'polluter pays' principle has been adhered to. The proposed system fails to recycle waste waters generated through the operation of the nursery, and instead proposes to treat such water and release it into the environment. The appropriate internalisation of environmental costs would more likely see such water treated to an appropriate standard to reduce the demand on Council's potable water system, thereby also reducing the need to introduce any water with the potential to pollute to the wider environment. The current proposal provides no economic incentive for the future nursery operation to maintain the proposed treatment system to ensure environmental management is to the appropriate standard, and in fact provides an economic disincentive to do so.

To summarise, the application needs to demonstrate that in accordance with ecologically sustainable development principles, the economic returns to the community need to balance the likely impact on public assets, and the project itself should demonstrate suitable internalisation of environmental costs. The proposal fails to do this.

Environmental

The proposal, as amended, is considered to have a negative environmental impact and this needs to be considered and balanced within the overall context of ecologically sustainable development. The clearing of 6.5ha of good quality natural vegetation, certain indirect impacts on an additional 6.9ha and the potential for significant impacts on habitat for Threatened Species and EECs is of major concern.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The current proposal provides for no environmental/vegetation offsets, has insufficient information to demonstrate that environmental impacts can be mitigated, and is located on a highly constrained site. It has not been demonstrated that the site is suitable for large-scale nursery operation or that such an operation would be sustainable in the long term, and it is considered that alternative sites may be more conducive to the sustainable development of a large-scale nursery operation. For example, were the proposal to be located on a more gradually sloping site, consisting of highly degraded vegetation or previously cleared for pasture, and adjacent to a highly modified receiving catchment then Council could reasonably expect to rely on development consent conditions could manage environmental impacts. In that hypothetical situation Council could reasonably expect to reduce the standard of detail necessary to make a judgement regarding the project, and would apply a reduced test when balancing economic benefit and environmental impacts.

In particular, when applying the precautionary principle it is incumbent on Council to evaluate proposals with respect to avoiding serious or irreversible damage to the environment and to consider alternative options to reduce the risk of such damage. Conservation of biological diversity and ecological integrity are not maintained or enhanced by the current application as they lead to further fragmentation of public and private lands providing ecosystem functions and identified as forming part of a likely sub-regional wildlife corridor. There are only limited options available to provide such connected ecosystems within the local area.

Social

As noted previously the social benefits to the community are largely related to provision of additional products and services, and the generation of local employment. Against these benefits must be weighed the concerns of the public as evidenced by a significant objections received in opposition to the application, and consideration of the efforts of local community groups in restoring in maintaining the condition of the public reserve system and wetlands adjacent to the development site that potentially will be impacted by the proposed development.

Temporal

Two issues must be considered with respect to temporal aspects of the proposal.

The first is the permanent removal of 6.5ha of significant vegetation. The permanence of this action is the important factor, as once the decision is made the results are permanent and irreversible.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The second is the impact over time on adjoining vegetation proposed privately owned on the subject lot and land owned by the public for conservation purposes to the north-east and the West. Sufficient environmental impact mitigation measures must be required to ensure that this land and its biodiversity values are maintained and the stock of natural capital held by the Wyong community will not be reduced. This has not been sufficiently demonstrated, and is inconsistent with concept of intergenerational equity.

THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b)):

Having regard to Section 79C of the Environmental Planning and Assessment Act, it is considered that the following matters require further consideration and are addressed in the following sections:

*The relationship to the regional and local **context and setting**.*

The site is heavily vegetated and currently forms part of the only functional wildlife corridor in this area. As discussed previously, there are significant environmental values in this corridor including the presence of threatened species and an Endangered Ecological Community. The development as proposed will have a significant negative impact on the green corridor by reducing its width, changing hydrological patterns in the area, introducing edge effects and further fragmenting native vegetation.

The site is adjacent to the Glenning Valley residential area and forms part of an environmental buffer to separate industrial development from residential uses, primarily for the purposes of noise reduction. The site also contributes to the visual and environmental amenity of the area and the proposal includes the retention of native vegetation in buffers of 30-110m in width to assist in retaining amenity. The amended proposal does not require access to be constructed to Bottlebrush Drive.

*Any impact on the conservation of **water**.*

The management of water on the development site and associated roads is one of the major impacts to be mitigated. A series of amended water management systems and supporting calculations has been received by Council following extensive negotiations between engineers. As noted above the final submitted plans are schematic only and the lack of detail means concerns remain regarding ultimate impacts on the site related to the construction, operation and maintenance of the proposed system.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The two final strategy and water balance reports submitted in support of the application Patterson Britton (October & November 2007) stated the predicted nursery usage would be approximately 28ML/year, the required potable supply would be 10ML/year and the proposed average yearly run-off from the site would be maintained at 16.1ML/year equivalent to the existing conditions. The reports summarised the strategy and water balance as follows:

- Bypass of upstream external catchment through the site. The flow would be discharged below the site via a level spreader to the SEPP 14 wetland catchment.
- Collection of rainfall run-off from impervious surfaces roof/carpark for irrigation purposes in four (4) large storage tanks totalling 2.35ML. Stormwater run-off collected for use by the nursery operation would be treated to ensure appropriate quality standards in accordance with the requirements of the Nursery POM.
- Treatment of all discharged stormwater from the nursery growing and storage areas within the retention basins to ensure that there is no significant environmental impact on the downstream wetlands. The MUSIC Modelling predicts that the overall water quality from the site would be treated to a better than existing condition.

It is noted that the water balance model calculations supporting the strategy were not provided, and Council's modelling using local rainfall data predicts that potable water use would be approximately 15ML/year (approximately 75 dwellings) as opposed to the 10ML/year in the submitted reports. It is noted that ultimate potable water usage, and resultant Water Management Act contributions, could be managed through development consent conditions.

The collection and discharge of run-off generated by the nursery plant growing area to the two (2) retention/detention basins has been supported by MUSIC Modelling and RAFTS stormwater drainage calculations. The discharge from the basins to a level spreader across the rear of the site is designed to maintain the environmental flows to the wetland catchment. The aim of the treatment of this discharge is to reduce the pollution loads to the pre-development condition in accordance with DECC Best Practice Water Quality Targets.

Such modelling does not however incorporate management of herbicides, pesticides, weed propagules etc, all of which are considered to be significant factors in treating water generated through nursery operations.

No preliminary engineering details have been provided to support the modelling or provide likely sizing for elements of the system particularly the significant bio-retention basins, swales and outlet controls delivering water from the nursery. No detail has been provided with regard to the practical operation of the system such as final landforms, incorporation of access or management of large-scale rain events, particularly over time. The outlet controls are also shown as located outside the general development footprint and do not appear to have been considered in other supporting documents.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

No recycling of water used in nursery operations is proposed, and all run-off from approximately 3.2ha (consisting of bulk landscape supplies area, plant production area, retail area and overflow carparking) is to be released into the environment. In short, the water management system uses water once only and all run-off from the production areas is then considered not treatable to a sufficient standard for it to be utilised again for plant production. This water will then be released into the environment following biological treatment only.

The construction, operation, maintenance and overall performance of the bio-retention swales and basins are therefore considered critical to ensure the appropriate treatment and removal of all contaminants, pathogens, propagules etc prior to the release of this water into the environment. As noted previously however, there is little detail apart from modelling on how this is to be achieved, and no economic incentive for future nursery operators to do so. Once the water has drained to the lowest part of the site there is little chance it will impact on the quality or production levels of the nursery.

Given the levels of uncertainty presented and the sensitivity of the receiving catchments Council cannot support the proposal in its current form as it has not been sufficiently demonstrated that relevant environmental impacts related to water management can be appropriately mitigated. Further, it is considered inconsistent with the principles of ESD and impractical to rely on development consent conditions in such a sensitive location.

Any effect on the flora and fauna - overall

A minimum of 6.5ha will be cleared and subject to extensive earthworks under this proposal. Despite requests from Council, no preliminary engineering plans have been provided for the nursery other than for one of the carparks. The plans submitted for the overall nursery are schematic only, and therefore the extent of ground disturbance and cut and fill within the development area cannot be accurately determined based on the information submitted. Given the slope of the site, the type of development proposed and the large size of water storage and treatment devices required, major cut and fill and ground disturbance will occur within the development area. Given these constraints and the absence of a tree plan nominating trees for retention (as requested by Council), it must be assumed that all trees and vegetation within the 6ha development area would be cleared.

As a result of the clearing there will be further modification and fragmentation of additional areas of vegetation even before potential indirect impacts of the nursery development are considered in full. Council's development ecologist has made an estimate of the area to be impacted by edge effects following clearing, using the following calculations. Firstly, the proposed clearing would completely isolate the approximately 4.5 ha of vegetation along Bottlebrush Drive and Torellia Way, surrounding it with urban development.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Secondly, assuming 50m of edge effects along the 480m western edge of the nursery, a further 2.4 ha would be impacted in this area. In addition, the most recent iteration of the proposed water management system shows 4 outlet structures to be located outside the development footprint.

Therefore, at least 12.9 ha of remnant, good quality vegetation and associated habitats would be degraded by clearing, fragmentation and edge effects. No offsets for this clearing have been proposed by the applicant, despite recommendations from Council officers that protection of vegetation and habitats elsewhere on the site would be important to meet Council's requirements in regard to ESD. It is further noted that the additional approval required from the CMA under the Native Vegetation Act would be likely to require significant vegetation offsets to permit clearing in a non-urban zone. As EEC vegetation will not be directly cleared and is outside the accepted 50m extent of the edge effects, the application has not been advertised as "Threatened Species Development" (S.5 (1) (c) EP&A Regs, 2000) and DECC has not been consulted with regard to the application.

Any effect on the flora and fauna - Direct impacts of clearing on threatened fauna

The clearing is not expected to impact any threatened flora species, but would impact the habitat of threatened fauna as discussed below.

The subject site provides potential foraging, roosting and breeding habitat for a range of threatened fauna species in the form of wetlands, drainage lines, hollow bearing trees, food resources, shelter and rocky outcrops. The hollow bearing trees identified by Conacher Travers were found to contain small (<10cm) to large (>30cm) hollows suitable for a range of fauna. As no tree plan has been provided nominating trees for retention, it is unknown how many, if any, of the approximately 50 hollow bearing trees within the development area can be retained. It is expected that most would require removal for the development and for safety reasons.

In addition to the Endangered Ecological Communities that occur on the site, threatened fauna species that have been recorded on this site in recent years are Eastern Bentwing-bat, (Ambrose Ecological and Conacher Travers) and Koala (public report and DECC Wildlife Atlas). The proposal would remove known foraging habitat for the Eastern Bentwing-bat, but is unlikely to remove roosting habitat for this species.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

A sighting and photographic evidence of a koala scat and tracks on the site was reported to Council and DECC in March 2007. There are few recent records of koalas east of the F3 freeway and none of these are in the southern area of the Shire, so this record is a potentially significant find. In response to the sighting, Council under the advice of DECC koala experts requested that the applicant undertake further targeted koala surveys and assessment. Additional surveys were not undertaken by applicant, instead an assessment of potential koala habitat under SEPP 44 – Koala Habitat Protection was submitted, which is of limited relevance for this assessment given the species is assumed to occur on the site. Spotlighting was previously undertaken on the site, but it is not shown in the report submitted where the spotlight transects were located, including whether they included areas with koala food tree species (Swamp Mahogany).

Where koalas are considered likely to occur, specialist koala survey techniques are required to be used, such as detailed scat searches within a grid (DECC, 2004). These surveys have not been undertaken. Importantly, an Assessment of Significance (7 Part Test) to determine the likely impact of the development on the koala as required by Section 5A of the EP&A Act has not been submitted at any stage, despite Council requesting this information.

In the absence of this assessment and given the habitats available both within the development area and the Swamp Sclerophyll Forest, Council cannot assume that there is unlikely to be a significant impact, and cannot approve the development without submission of a Species Impact Statement and concurrence from DECC.

The Wallum Froglet has been recorded in the adjacent SEPP 14 wetland and on a nearby site at Apprentice Drive (Andrews Neil and DECC Wildlife Atlas). Any potential changes in water quality and quantity as discussed below have the potential to impact this species. Other records in the DECC Wildlife Atlas for the wetland show an additional two microbat species and Spotted-tailed Quoll. Other threatened fauna that were not recorded on the site but have potential to occur based on local records and habitats present include gliders, bats and birds including owls.

The site forms part of an important wildlife corridor linking Glenning Valley with Ourimbah Creek. The proposed development would reduce the size of this corridor and the types of habitats available within it, particularly with regard to the Blackbutt Forest that would be subject to clearing. Additionally, there is potential for a significant impacts related to edge effects including water quality changes and weed spread discussed further below.

The clearing of 6ha of land including 50 hollow bearing trees in conjunction with the associated habitat degradation of a further 6.4ha as discussed above therefore has the potential to impact a wide range of species, including the threatened species discussed above.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Any effect on the flora and fauna - Edge effects

This is a term used to describe the various consequences, on vegetation and wildlife that occur as a result of natural vegetation sharing a border with developed lands. It has been long established that edge effects have a range of negative impacts on conservation areas where sufficient measures have not been put in place on the developed land to mitigate impacts.

Chapter 30 of DCP 2005 - Wyong Shire Wetland (1999) provides significant background and to detail regarding suitable measures to manage wetland edges. This DCP does not specifically apply to the subject site as the development footprint does not encroach on the 7 (a) Conservation Zoned part of the lot on the western boundary. There is however particular concern given the specific characteristics of the site and the scale and nature of the nursery proposal with the potential to substantially change water quality and quantity, input significant nutrient loads into the catchment, or spread undesirable vegetation seed or propagules.

Similarly, clause 41A of WLEP 1991 - Development of Land within Zone No 7(g) - does not specifically apply to the subject land but provides clear Council policy guidance.

Edge effects include:

- Microclimatic changes, including increased sunlight, changes to humidity, air temperature, wind speed etc;
- weed invasion through windblown seed, vegetation propagules, birds etc;
- noise, light and movement impacts, particularly on the ability of fauna to utilise that habitat;
- pollution including dust, spray drift, littering, chemical spills;
- changed fire regimes related to the need to protect economic assets; and
- hydrological and hydraulic changes, both of surface water and ground water.

In combination, the various impacts can act over time to significantly change the condition and types of vegetation, resulting in significantly different habitat. The subject site is relatively steep, contains an EEC, is immediately upstream from a significant SEPP 14 wetland and identified wildlife corridor and the proposal is for a wholesale and retail scale nursery. This emphasises the importance of having supporting information of sufficient level of detail to demonstrate to Council that proposed water management systems, nursery operations, landscape buffers, setbacks etc will be able to mitigate potential impacts.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The current amended application has not provided sufficient preliminary engineering and landscaping details to demonstrate that the water management system depicted schematically in submitted drawings, and the water management system separately described in a written submission to Council can physically be located, constructed and maintained to a satisfactory standard to ensure impacts can be mitigated on an ongoing basis. Whilst modelling has been presented in support of a proposed water management system, in this particular case, it is considered insufficient given the particular sensitivity of the site and the nature and scale of the proposed nursery. The applicant maintains that development consent conditions can be suitably imposed to require this detail to be provided at Construction Certificate stage, however, Council's recent practical and Land and Environment Court experience has demonstrated that it is inappropriate to rely on the development consent conditions to this extent in such situations.

DECC has previously advised in detail that edge effects must be managed and that Council must ensure the mitigation of these impacts at the point of issuing development consent. This is of particular importance as DECC has not been directly consulted as part of this application process for the reasons discussed above.

Any effect on the flora and fauna - Water quality and quantity management

Changes in water quality and quantity have the potential to impact the bushland, EEC, SEPP 14 wetland and threatened frog habitat downstream of the subject site. Council's Engineer and Environmental Monitoring Officer have provided detailed review in relation to water quality and quantity. Run-off from nurseries is characteristically high in nitrogen and phosphorus, chemicals (pesticides, herbicides), sediment and also contains plant propagules and plant pathogens. It is thus potentially a biologically and chemically contaminating industry.

Clean water collected in rainwater tanks is proposed to be used in the nursery operations, as opposed to suitably treating and recycling run-off from the nursery. A potential resource therefore becomes a potential pollution problem to be managed above high quality vegetation and a wetland. There are further concerns regarding a statement in the draft Nursery POM (Horticultural Communications Pty Ltd) regarding additional use of groundwater, that has not been otherwise addressed in the overall water management system, and that has the potential to further impact on inflows to the wetland.

It is proposed that "dirty" run-off from the nursery, including retail and growing areas, would be directed by swales to bio-retention basins at the lower end of the site where it would be polished before overtopping into the bushland area as part of environmental flows to the retained vegetation in conjunction with diversion of water from upslope of the nursery.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The system proposed would require ongoing maintenance to ensure adequate treatment where there is no economic incentive to do so. Little detail has been provided as to the ultimate physical construction of swales, level spread outlets and basins and practicalities of servicing these elements of the system to ensure that water can be treated to an appropriate standard on an ongoing basis.

For instance, it is unclear as to whether the system would provide sufficient detention times for breakdown of chemicals, and what is to occur in periods of high flows. Areas of concern include whether dirty water would be able to bypass the system, or if detention times are reduced to a point where the bio-retention system doesn't function, potentially allowing the release of high levels of nutrients, sediment, propagules and chemicals into the sensitive receiving environment.

The level of uncertainty that this engenders regarding the mitigation of impacts, the difficulty and costs of enforcement and the lack of economic incentive for operators to ensure water quality considered cumulatively mean that Council cannot support the application in its current form.

Any effect on the flora and fauna - Impact of weeds

The Co-operative Research Centre (CRC) for Australian Weed Management has recently commissioned a study of the impact of weeds on threatened biodiversity in NSW and found that weeds posed a threat to 45% of the plants, animals, populations and ecological communities listed under the *Threatened Species Act* and *Fisheries Management Act*, including the Swamp Sclerophyll Forest EEC. This represented the second highest threat to this biodiversity, with land clearing the primary threat. Weeds impact native species and communities primarily through competition and habitat degradation.

Gardens and nurseries are a recognised source of weed invasions of native bushland and it was found that 65% of weed species identified as threatening biodiversity were identified as "garden escape" plants, species that had been deliberately introduced as ornamental plants, and many are still available for sale in NSW nurseries. Even where nurseries are reasonably well managed, wherever plants are grown outdoors as is proposed here, plant propagules can spread by wind blown seed, be carried by animals such as birds, bats and small mammals or be contained in run-off containing seeds or other parts of plants. Any nursery on this site, regardless of size and nature, would have difficulty managing such impacts given the quality of vegetation and sensitivity of the local environment. Therefore, a high level of detail is required at development application stage to demonstrate these likely impacts can be managed.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

It is considered that relying on development consent conditions to prevent the cultivation or sale of potentially invasive species would be unenforceable and unlikely to result in sufficient protection of the environment in the long term particularly if operators were to change over time. This also fails to take into account changes to the level of risk resulting from trends in the nursery industry combined with the impacts of climate change, as new weed species are constantly emerging and changed environmental conditions would be likely to exacerbate this. In addition, native plants from other areas of Australia can also become weeds and have detrimental impacts on the ecology of native bushland areas, posing a threat to biodiversity even though they may not be listed as noxious weeds or yet considered as environmental weeds.

As well as being a major ecological problem, weeds are a major economic burden for management of bushland areas, and it should be noted that Wyong Shire Council is currently spending significant amounts of public money on weed control in the wetlands directly downstream of this site as part of a PVP agreement with the CMA. Weeds also have a social impact, with community groups such as Landcare spending significant amounts of time on weed control in bushland areas.

Lastly, it is also noted that weed proliferation would be further encouraged by any increased volume and velocity of run-off and any increased nutrient levels, discussed above.

Any effect on the flora and fauna - Impact of plant diseases and pests

The establishment of a nursery in this bushland setting would introduce plant pathogens to the site. The Nursery POM details some strategies for reducing disease and pest incidence within the nursery, such as using a UV treatment system and sand filtration is proposed to be used to disinfect irrigation water for the nursery "*to ensure that diseases have been eliminated*". It is notable however that no such treatment process is proposed for the water that would discharge to the environment from the bio-retention basins.

The spores of pathogens that can cause serious plant diseases, such as root rot, are spread large distances via stormwater run-off. Infection of native plants by *Phytophthora cinnamoni* (a form of root rot) is listed as a Key Threatening Process under the TSC Act. It infects a wide range of native species, particularly in coastal forests, causing damage and death to plants and also causing habitat degradation. This threat has not been addressed in any supporting information and as discussed above, the proposed water management system will release water directly into a sensitive receiving catchment. The proposed system does not include disinfection or UV treatment etc for water to be released into the environment, despite requiring this of stormwater captured for use in nursery plant production. It is also noted that dieback caused by *Phytophthora cinnamoni* is also listed as a Key Threatening process under the federal Environment Protection and Biodiversity Conservation (EPBC) Act.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The statement in the Nursery POM that biological control agents, "*bugs that control bugs*", would be released throughout the garden centre on a regular basis is also of concern. Again, the proposed location adjacent to high quality native vegetation increases the level of risk of negative environmental impacts and is indicative of the unsuitability of the site for the proposed development.

The access, transport and traffic management measures.

The submitted Traffic Report prepared by Transport and Traffic Planning Associates states that the development will generate less than 250 carparking spaces and that the development will not warrant the upgrading of the Enterprise Drive/Blade Close intersection currently under construction. The supporting SIDRA modelling indicates that the approved Enterprise Drive/Blade Close intersection (DA 563/93A) has sufficient capacity to accommodate the increased traffic generated by the nursery.

Examination of the modelling reveals that it is incomplete and inconsistent in output traffic figures. However, regardless of the modelling undertaken by the applicant's traffic consultant, reference to the AUSTRROADS "Guide to Traffic Engineering Practice" (incorporating recent Council traffic survey data together with the traffic consultant's predicted traffic generation) results in a minimum Type CH channelized intersection configuration. It is noted that the site would be serviced by a significant volume of heavy vehicle traffic engaged both during and post-construction related to delivery of plant stock and bulk landscape supplies etc.

The submission prepared by the applicant (Planning Workshop) indicates that 268 carparking spaces will be provided, including 124 overflow spaces. Based on this generation, the application was referred to the Hunter Regional Development Committee. The Committee raised no objection to the development, subject to the upgrading of the intersection currently under construction to a painted seagull type intersection designed to a 90kph speed limit accommodating B-Doubles. A concept plan for the intersection showing the integration of Hereford Road was also required. The applicant for the DA/609/2007 (proposed Service Station and Carwash) within Lot 1 DP 1100181 Blade Close has prepared a layout plan for the construction of a channelized seagull Type C intersection at the Enterprise Drive/Blade Close Intersection. Access from Blade Close would be via a suitable 13m wide carriageway constructed within an established 20m wide right-of-way under DA 563/1993/A at the applicant's expense. Suitable access design details have been submitted in support of the application.

If the application were to be supported, suitable development consent conditions could be applied.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

*The impact on the **public domain** (recreation, public open space, pedestrian links).*

As noted above, much adjoining land is owned by Council and is considered to have vegetation with high conservation value. This land and the subject development form part of a sub-regional wildlife corridor identified in previous planning studies. As a public reserve, it is important that this high quality vegetation is not negatively impacted by the construction and ongoing operation of a large-scale nursery operation. This land is available for use by the community for educational purposes, the provision of ecosystem services, conservation of threatened species and passive recreation. Potential environmental impacts are discussed at length elsewhere within the report.

*The effect on **heritage** significance.*

No heritage report was submitted in support of the application however the application could be suitably conditioned with respect to undiscovered items of heritage significance.

*Any effect on the conservation of **soils** or acid sulphate soils.*

As noted previously, the slope and landform of the site, extent of the proposed water management system, access requirements and construction of the nursery growing area and associated buildings will result in extensive modification of the landform. Insufficient detail has been provided for Council to make a full assessment of the extent of modification, and further, it is unclear as to whether additional disturbance would be required outside the footprint of the development during the construction phase in order to provide for batters, retaining walls etc to construct water management infrastructure and access.

*Any effect on quality of **air and microclimate conditions**.*

The clearing of approximately 6.5ha of vegetation will have negative impacts on the remaining vegetation through the exposure of trees to increased winds, loss of soil moisture and the introduction of weed species and an altered fire regime. These factors have the potential to further affect the viability of retained vegetation and threatened species habitat.

Concerns have been raised regarding the impacts of chemical spray drift and odour during the operation of the nursery, however, it is considered that suitable development consent conditions could be applied to sufficiently mitigate these impacts.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

*Whether the development will cause **noise and vibration**.*

As noted previously, significant concerns have been raised with regard to the location of such a development within land zoned predominantly to provide a noise buffer to the adjacent Berkeley Vale industrial area. The application has been supported by a comprehensive acoustic study demonstrating that through the use of significant buffers to residential areas, that particular layout will be able to meet the appropriate noise control standards.

*Any risks from **natural hazards** (flooding, tidal inundation, bushfire, subsidence, slip etc).*

The site is noted as bushfire prone land. As the development is not for residential purposes the application has not been referred to the Rural Fire Service. It is considered that given the nature of the development and the location of significant proposed water management infrastructure and access trails along the southern and western sides of the proposed development, no further specific bushfire protection measures would be required apart from appropriate construction standards. The original plan showing connections to the residential area and significant additional clearing for asset protection zones was considered inappropriate and amended following consultation with the applicant. The development could be suitably conditioned if supported.

*Any **social impact** in the locality.*

As previously noted, there would be positive social impacts through the generation of local employment and provision of additional goods and services within the local area. However, there has been significant public opposition to the proposal following notification. This is discussed further below.

*Any impact of **site design and internal design**.*

The proposed development layout has clearly been designed to provide for generous setbacks from existing residential areas to minimise acoustic and visual impacts on local residents. However, this has resulted in the development footprint being located largely within high quality vegetation as opposed to more degraded bushland located in the proposed residential buffers. As discussed at length elsewhere in the report, insufficient detail has been provided with regard to preliminary engineering design, particularly with regard to the extensive water management system proposed and it is unclear whether environmental impacts can be contained to the development footprint.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

As noted elsewhere, there will be significant cut and fill required across the development site that has not been adequately detailed, and may lead to further additional impacts on vegetation that is proposed to be retained by direct impacts and also by interruption to existing hydrological patterns.

*Any impacts of **construction** activities (construction site management, protection measures).*

There will be significant impacts on both vegetation to be removed and the vegetation to be retained adjacent to the development during the construction phase. It is expected there would also be significant noise, and potentially dust, impacts on surrounding residential areas during the clearing and construction phase, as little detail has been provided with regard to the final estimates of cut and fill and the type of material to be encountered.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):

*Whether the **proposal fits in the locality.***

As noted elsewhere in the report, there are significant concerns regarding the further clearing and fragmentation of high quality native vegetation forming part of an overall sub-regional wildlife corridor. Vegetation removal will also have a significant negative impact on visual amenity from surrounding residential areas. The high number of objections received by Council following notification further demonstrates there are also significant community concerns regarding the suitability of the site.

*Whether the **site attributes are conducive to development.***

Given the issues discussed at length above regarding environmental impacts, the sensitivity of the receiving catchment, the type and scale of activity proposed and the high level of uncertainty as to the ability to sufficiently mitigate impacts by the development, it is clear that this site cannot be considered suitable for a large wholesale and retail nursery operation.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):

Any submission from the public.

The application was originally notified in March 2006 and the amended application re-notified in April 2007. A total of 232 separate submissions were received, with a number of individuals and organisations making additional multiple submissions to Council. A summary table of the major issues identified in submissions (including a percentage indicating the number of submissions raising the issue) along with a brief planning comment is provided below. It is considered that generally, the issues have been dealt with within the body of the report.

Table 1: Summary of issues raised in public submissions

Issue	No of Submissions	Planning Comment
<p>Traffic</p> <ul style="list-style-type: none"> • Volume • Noise • Safety • Access from Bottlebrush Drive • Adequacy of the existing street network to accommodate the additional traffic 	<p>185 (80%)</p>	<p>Access and traffic issues have been considered within the body of the report. It is noted that the amended plans no longer show any connection to Bottlebrush Drive.</p> <p>Development on the scale proposed would require upgrading of the Blade Close/Enterprise Drive intersection.</p>
<p>Water</p> <ul style="list-style-type: none"> • Water shortages and restrictions • Adequacy of detention ponds • Water pollution by chemical contamination 	<p>189 (81%)</p>	<p>Water management has been considered at length within the body of the report with issues raised in submissions specifically addressed. Levels of water use for particular proposals are considered holistically and must be balanced with potential positive impacts such as local employment generation and provision of additional goods and services.</p>

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Issue	No of Submissions	Planning Comment
<p>Air Quality</p> <ul style="list-style-type: none"> • Dust • Airborne chemicals (herbicides/pesticides) • Odours 	<p>186 (80%)</p>	<p>Air quality issues considered within the report, it is acknowledged there are potential significant impacts related to both the construction and operation of the nursery.</p>
<p>Vegetation management</p> <ul style="list-style-type: none"> • Excessive clearing • Destruction of bushland • Impact on EECs and SEPP 14 wetlands • Introduction of weeds 	<p>176 (76%)</p>	<p>The level of clearing required and the impacts on threatened communities have been discussed within the report.</p>
<p>Wildlife</p> <ul style="list-style-type: none"> • Adverse impact on wildlife and habitat • Introduction of pests 	<p>180 (78%)</p>	<p>Impacts on threatened and more common species have been considered within the report. The potential impacts of the introduction of pest species have been considered particularly with regard to changing environmental conditions.</p>
<p>General Degradation Environmental</p> <ul style="list-style-type: none"> • Pollution 	<p>164 (71%)</p>	<p>The scope for pollution and potential impacts has been considered within the body of the report.</p>

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Issue	No of Submissions	Planning Comment
<p>Health</p> <ul style="list-style-type: none"> • Use of pesticides in close proximity to residents • Algal outbreaks and mosquito breeding in detention ponds • Implications of airborne particulates/chemicals 	<p>17 (7%)</p>	<p>There is no evidence presented that pesticide use will have any likely direct impact on residential areas. Chemical use is regulated under separate legislation and appropriate development consent conditions could be applied if the application were supported.</p>
<p>Amenity</p> <ul style="list-style-type: none"> • Noise of operation • Inadequate buffer and loss of buffer • Scale • Aesthetics 	<p>202 (87%)</p>	<p>A detailed acoustic report has been submitted in support of the application. Council's technical staff have assessed the report and consider appropriate standards can be met within the guidelines of the EPA Industrial Noise Policy and RTA Guidelines.</p>
<p>Economic Impact</p> <ul style="list-style-type: none"> • Property price decline • Impact on existing businesses • Oversupply • Sustainability 	<p>33 (14%)</p>	<p>There is no evidence to support the claim that property prices will be negatively impacted.</p> <p>The proposed development is permissible with consent and is assessed on merit.</p>

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Issue	No of Submissions	Planning Comment
<p>Other</p> <ul style="list-style-type: none"> • Permissibility/appropriateness in the zone • Creation of undesirable precedent • Length of advertising period • Overloading of public infrastructure 	<p>52 (22%)</p>	<p>The proposed development is permissible with consent and is assessed on merit. Whilst noted as an Environmental Protection Zone, the zone objective and history demonstrate that noise amelioration between the Berkeley Vale west industrial area and the Glenning Valley residential area is the primary purpose of the zone.</p> <p>Council has twice notified the application and worked with local residents to ensure public consultation is of an appropriate standard.</p> <p>The application has been considered by the appropriate Council engineering specialists with regard to impact on infrastructure. Any infrastructure construction or upgrading would be in accordance with Council requirements.</p>

Any submission from public authorities.

In July 2007, advice was received from the NSW Department of Primary Industries that it had no formal objection to the proposal, but expressing concern that *“the removal of natural vegetation and the management of water/nutrients on the steep side not only will provide a challenge to the environmental sustainability of the enterprise but also implies that the site is not suitable for such a development”*.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

CONCLUSION

In conclusion, whilst a plant nursery is permissible with development consent within the 7(f) - Environmental Protection Zone under WLEP 1991, it is considered that the likely environmental impacts arising from the development, the scale of the proposal and the significant public objections demonstrate the unsuitability of the site for the development in its current form.

Further, it is considered that the particular characteristics of the site, in combination with the nature of the development, result in a high level of uncertainty that significant impacts can be mitigated given the level of information provided in support of the application. Where there is a lack of certainty, decision-makers must apply the precautionary principle and avoid, where possible, serious and irreversible damage to the environment. It is therefore inappropriate to attempt to mitigate likely environmental impacts through the use of development consent conditions alone where suitably detailed plans and supporting information has not been provided.

Therefore the application is recommended for refusal.

<i>Attachment 1</i>	<i>Locality Plan (1 page)</i>
<i>Attachment 2</i>	<i>DCP 2005 Chapter 14 Tree Management - Summary Table (2 pages)</i>
<i>Attachment 3</i>	<i>Typical view of site looking generally south (1 page)</i>
<i>Attachment 4</i>	<i>Typical view of site looking generally west (1 page)</i>
<i>Attachment 5</i>	<i>Summary of current application (2 pages)</i>
<i>Enclosures</i>	<i>Major Components Development Footprint Sections</i>

**Proposed Wholesale and Retail Plant Nursery and Associated Facilities at
Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 2)****DCP 2005 Chapter 14 Tree Management - Summary Table**

Part 3.4	Consideration
A	The clearing is proposed for the construction and operation of a plant nursery (permissible use with consent).
B	Information provided shows there are a number of keystone species listed under section 7.2 of the DCP located within the development footprint. As no tree survey has been provided in support of the application there is insufficient detail regarding the number and type of particular species, the condition and the existence of hollows etc. Given the limited detail provided regarding engineering and earthworks it is assumed that all trees within the development footprint are to be cleared. As noted elsewhere, the lack of engineering details suggests there may be significant additional clearing outside the development footprint in relation to detention basins and drainage swale construction.
C	The condition, maturity and useful life expectancy of native vegetation on the subject land appear generally good with intact structures and a range of age classes. No specific information has been provided for individual trees.
D	The application provides for significant buffers to be retained and enhanced between the development footprint and surrounding residential development. If the application were to receive support, suitable development consent conditions could be applied to improve these relatively degraded areas outside the development footprint.
E	As discussed at length elsewhere in this report, there are significant concerns regarding the impact of edge effects on residual conservation land to the west and south in particular. There is particular concern over medium-term impacts of water management and nursery operations on EEC vegetation and retained bushland. Whilst it is apparent there are at least 50 hollow bearing trees within the development footprint no detail has been provided to demonstrate the overall impacts of the removal of these trees on both common and threatened species or the availability of suitable secure habitat.
F	The amended layout locating buildings within the centre of the development footprint and with carparking and water management facilities adjacent to retained bushland will negate the need for specific bushfire protection measures.
G	Nutrient release and weed invasion is likely to occur as a result of the clearing, construction works and potentially as a result of the ongoing operation of the nursery. Permanent mitigation measures have been shown in schematic form and supported by some modelling, however insufficient detail has been provided by Council to place a high degree of certainty that existing high-quality bushland will not be negatively impacted by the development.
H	No detail regarding the means of clearing has been provided in support of the application. Given the specific characteristics of the site, notably slope and sandstone soil types in combination with the significant earthworks required, there are major concerns that vegetation outside the development footprint will be materially impacted.
I	No detail has been provided regarding vegetation management or soil and water management plans during construction stages. Standard siltation controls will not be adequate due to the slope of the site and proximity to high quality vegetation, EEC vegetation and a SEPP 14 wetland in the receiving environment.
J	Whilst the majority of the site retains vegetation, it is considered that there will be significant edge effect impacts on much of this native vegetation as detailed elsewhere in this report. It is noted that a major subregional corridor is located directly to the west of the site and this will reduce the size of the corridor and the range of habitats available. It is further noted that the Council reserve directly adjoining the site to the north-east will essentially become isolated and of lower ecological value.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 2) (contd)

K	No detail has been provided for Council to specify protection measures for particular trees or habitat.
L	The proposed method of disposal has not been specified in any detail but it is noted there will be significantly larger volumes of vegetated matter to be disposed of, and this needs to be considered in the context of nutrient leaching and fire safety impacts during any clearing phase.
M	Supervision of the clearing works by a suitably qualified ecologist is required to protect environmental values of retained vegetation and to oversee relocation of native animals, and could be suitably conditioned.
N	The current vegetation is in generally good condition and protection of retained vegetation is considered to be at a significant risk due to the operation of earthmoving machinery and the construction of drainage infrastructure outside the identified development footprint. The lack of engineering detail regarding proposed structure means Council is unable to determine likely impacts and necessary rehabilitation measures
O	No offsets are proposed as part of the application despite the clearing of 6.5ha of native vegetation. No landscape plan or detail regarding rehabilitation of the northern and eastern buffers has been provided and these would require substantial maintenance and enhancement including bush regeneration and supplementary planting.
P	The clearing will cause the viability and quality of native vegetation (bushland) to be greatly reduced as discussed elsewhere in this report.
Q	Insufficient information has been provided as to the ultimate impact on the existing vegetation or that proposed for retention. No specific mitigation measures have been provided apart from the construction of a water management system and as noted elsewhere in this report this has insufficient detail to demonstrate that impacts can be successfully mitigated over time.
R	NSW Department of Primary Industries, whilst advising of no formal objection to the proposal, expressed the concern that <i>"the removal of natural vegetation and the management of water/nutrients on the steep side not only will provide a challenge to the environmental sustainability of the enterprise but also implies that the site is not suitable for such a development"</i> . In addition, despite Council advising a separate clearing approval would be required from the Hunter - Central Rivers CMA the applicant has chosen not to commence negotiations to date. As noted elsewhere within this report it is considered that significant vegetation offsets will be required for any approval to be granted under the Native Vegetation Act 2003.
S	As discussed elsewhere in this report, it is considered that the requirements of SEPP 44 - Koala Habitat had not been adequately addressed. Separate approval will be required under the Native Vegetation Act 2003 likely to involve significant vegetation offsets in perpetuity. There has been insufficient consideration of the requirements of the TSC Act 1995.
T	As noted elsewhere in the report the site is known to contain suitable habitat for a number of threatened species listed in schedule 1 or 2 of the TSC Act.
U	If the application were considered worthy of support a detailed Vegetation Management Plan would be required to be submitted for approval prior to the commencement of any clearing works.

**Proposed Wholesale and Retail Plant Nursery and Associated Facilities at
Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 3)**

Typical view of site looking generally south



12 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

**Proposed Wholesale and Retail Plant Nursery and Associated Facilities at
Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 4)**

Typical view of site looking generally west



Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 5)

Summary of Current Application

March 2006: A pre-lodgement meeting was held to discuss issues and provide direction on information requirements.

April 2006: The subject development application was lodged and notified in accordance with Council's DCP 2005 - Chapter 70 Notification of Development Proposals.

May 2006: Council received additional environmental assessment information including eight-part tests for identified flora and fauna species.

July 2006: Council wrote to the applicant requesting significant further information following an assessment of the original development proposal.

August 2006: Council staff met with applicant to discuss design and information provision.

March 2007: Council received amended plans and significant additional information. Due to the amendments to the application it was re-notified and further submissions were accepted.

March 2007: A local resident provided material suggesting that a koala was using the site. Council staff sought expert advice from the (then) Department of Environment and Conservation, who concurred that fieldwork should be undertaken. Council subsequently advised the applicant that suitable additional fieldwork was required to determine the presence or absence of a koala on-site.

June 2007: Council wrote to the applicant requesting significant further information following assessment of the revised plans and supporting information, specifically with regard to the mitigation of likely negative impacts resulting from the operation of the proposed nursery and water management system.

July 2007: Council received advice from the NSW Department of Primary Industries advising of no formal objection to the proposal, but expressing concern that "*the removal of natural vegetation and the management of water/nutrients on the steep side not only will provide a challenge to the environmental sustainability of the enterprise but also implies that the site is not suitable for such a development*".

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 5) (contd)

August 2007: The applicant and senior staff held a meeting to discuss the application. This resulted in agreement for the submission of further information within a specific timetable, broadly reiterated issues raised and clarified the level of detail required with relation to the particular characteristics of the site, type of operation and discussed the consideration of significant vegetation offsets to balance the significant impacts of clearing and modification of retained bushland.

September 2007: Council wrote to the applicant requesting the final submission of information as agreed in the meeting.

October 2007: Council received further amended plans and supporting information.

November 2007: Council staff and engineering consultants conducted a series of additional negotiations and communications with respect to the proposed water management system.

097 Submission on the Warnervale Town Centre Exhibition

F2004/00535-04 SCF:SCF

SUMMARY

This report provides Council with the main comments and issues raised as a result of a review of the draft Warnervale Town Centre (WTC) exhibition material. It is recommended that Council forward the full submission to the Department of Planning.

RECOMMENDATION

- 1** *That Council express its concern to the Minister for Planning that previous submissions and details submitted by staff have not been adequately taken into account.*
- 2** *That Council make a formal submission to the Department of Planning on the Warnervale Town Centre Rezoning and associated documentation along the lines of the enclosed draft submission.*
- 3** *That Council make representation to the Minister for Planning that the issues raised in Council's submission be reviewed and taken into account prior to this rezoning proceeding to gazettal and that such review be undertaken in a timely manner to ensure that amendments to the rezoning plans are made as soon as practical.*
- 4** *That Department of Planning staff continue to liaise with Council staff on at least a fortnightly basis, as agreed by the representatives of the Department of Planning on 27 February 2008.*

INTRODUCTION

In June 2006, the Minister for Planning called in the WTC as a potential State Significant Site for inclusion in Schedule 3 of the State Environmental Planning Policy (SEPP) (Major Projects) 2005 as the Minister determined that it is of regional significance, having been identified in the draft Central Coast Regional Strategy (CCRS) as a major new town centre.

As part of this process, the Minister established an independent review of the possible town centre locations. That review recommended that the planning of the town centre should proceed, locating the town centre core adjacent to the new railway station at the top of the hill.

Submission on the Warnervale Town Centre Exhibition (contd)

On 13 February 2008, the State Government released the much awaited exhibition material for the WTC with an exhibition period of 5 weeks. The Department of Planning (DoP) will receive written submissions on the exhibition from all interested parties up until 19 March 2008. Upon review of submissions and amendment of the draft documents, the Department intends that these documents guide future development within the WTC. Under the proposed planning controls, the future consent authority for individual developments will be a mixture of Part 3A (State Significant Development) and Wyong Council.

The DoP is publicly exhibiting the following documents for the WTC:

- State Significant Site Study
- Draft SEPP (Major Projects) 2005 (Amendment No. 24)
- Special Infrastructure Contributions Plan
- Biodiversity Certification Report; and
- Various technical documents.

Wyong Shire Council is currently exhibiting a draft Section 94 Contribution Plan for the WTC to ensure that the development industry and the wider community are aware of all the development levies that will apply to development within the Precinct. Submissions on the draft Contributions Plan will be reported to Council separately for adoption following completion of the exhibition. Despite repeated requests from Council, the DoP has not provided details on what will be allowed under the proposed s94 amendments. Key items such as the aquatic centre, district sporting fields and the link road from Watanobbi may be excluded.

The draft submission, comments on legal and technical issues with the draft Development Control Plan (DCP), draft SEPP Amendment to Schedule 3 of the Major Projects SEPP and the draft State Infrastructure Charge (SIC).

WARNERVALE TOWN CENTRE PROPOSAL

The WTC Precinct has an area of approximately 119ha. The site is located north of Sparks Road, between Sparks and Hakone Roads, generally east of the railway line to Hiawatha Road. The site has been used for rural residential uses, plant nurseries, quarrying and landfill. Some of the rural residential uses still exist. A school and a medical centre are located on lots fronting Sparks Road.

It is proposed to rezone the land to create approximately 15ha of retail and commercial uses, 64ha of residential uses, with the remainder of the site rezoned open space, conservation and special activities (including an 8ha nature reserve created to protect the Commonwealth listed Heath Wrinklewort). The WTC plan, as exhibited, is enclosed.

Submission on the Warnervale Town Centre Exhibition (contd)

COUNCIL'S SUBMISSION

Council staff have, in the short time available for the review of the documentation and preparation of the submission, identified a number of major issues which are of concern in relation to the functionality of the proposed town centre precinct. These include:

- *Slope of the access road into the town centre core area.* The main access road into the town centre is too steep for buses, pedestrians and cyclists. The road does not follow the contours of the hill, creating a circuitous route and many right angle turns. There have been repeated representations to the DoP regarding this, but the plans have not altered. Additionally, the location of the road solely within the Council landholding is not consistent with Council's standard approach to ensure the costs of development are equitable across landowners. It appears that the Council land is being fully impacted in order to remove any impact on the adjacent property owned by Landcom.
- *Traffic gridlock will occur on the eastern side of the railway station.* All traffic to and from the western side is channelled into a single intersection at the corner of the railway line, bus/rail interchange and the beginning of the town's Main Street. This corner will be the focus of a lot of the activity within the town centre - commuters, through-traffic, shoppers, cyclists and pedestrians (able bodied and disabled, young, old, mothers with prams). This is combined with the current design of the overbridge being vastly inadequate to cater for vehicles, off-road cyclists, pedestrians and turning lanes associated with the traffic lights on the eastern side of the line. In addition, all through-traffic using the main north/south link road from Watanobbi to Charmhaven will pass through this intersection.
- *Commuter parking.* There is a significant lack of detail given regarding:
 - the number of commuter carparks proposed,
 - the timing of provision of these spaces,
 - the source of funding and who will be providing the carparking.Officers from the Department of Planning have been unable to provide answers on these questions, however departmental staff have suggested that commuter parking would be subject to a fee..
- *3 Storey "Walk-ups".* The proposal contains 628 dwellings within 3 storey buildings, likely to be in the form of 'walk-ups' without lifts (page 13 of DCP). This is nearly 40% of the total 1,700 dwellings. This type of development is not desirable on a large scale or in concentrated areas. It does not contribute to the objectives of providing accessible, safe and convenient accommodation that reflects the future demography of the area, within a sustainable building style. Council does not seek to encourage a Dee Why style of development for the next generation and beyond. Therefore, yields proposed are unlikely to be achieved, impacting on the amount of contributions collected across the precinct, with shortfalls having to be met by Council and the wider community.

Submission on the Warnervale Town Centre Exhibition (contd)

- *Town Centre densities, height and yield.* The proposed densities in and adjacent to the town centre are considered low for a centre based around a major public transport interchange (bus, train, taxi). The State government has repeatedly stated that higher density and higher development, if it is to be provided in any area, should be located adjacent to transport nodes and town centres. The WTC proposal shows low and medium density development (maximum height limit of 8.5m) immediately adjoining the southern boundary of the shopping area, well within an average walking distance of the transport interchange. This land is in the ownership of Landcom and a DoP officer stated that Landcom had made representations to the Department which had been taken into account in the concept planning of this area. Further to this, 400 apartments are proposed within the town centre area. This is highly unlikely to occur unless there are stand alone residential flat buildings as the development of the 'big box' shopping centre on the southern side of Main Street with its need to provide plant and equipment, together with the 12m height limit, will stifle the number of apartments that will be achieved. Again, this would impact on the amount of contributions collected.
- *Lack of active "kick a ball" space.* With 1,000 dwellings and nearly 2,000 residents anticipated to live in the immediate vicinity of the town centre, there is no outdoor, flat, cleared, open area proposed where residents and visitors can kick a ball, fly a kite or generally participate in unorganised activities. The aquatic centre and adjacent community facilities will provide excellent indoor recreation and entertainment opportunities for residents; however, outdoor space should also be provided in association with the aquatic centre. Council would normally require some 1.2ha of open land for this number of residents in a standard residential estate. The DoP has significantly reduced the size of the Hill Top Park, removing any open space from around the aquatic centre and integrated child/family centre. The Ridge Top Parks to the north of the aquatic centre and on the western side of the railway line will be required, via the biocertification process, to retain and enhance their native tree canopy. They are steep and rugged hill tops. Council is required by the DoP to prepare Plans of Management for all open space areas to ensure this occurs.
- *Retail Centre.* The Main Street is 400m long with the Railway Station as the centre. A DoP officer described the centre as spanning both east and west of the railway line with retail, commercial, commuter parking and residential on both sides of the station. This is already an issue for long standing town centres in suburban Sydney (eg Hornsby) and is not appropriate for this site. Nonetheless, if it persists, there needs to be a plan that explicitly guides the timing and staging of the centre. The first stage should be concentrated on the eastern side of the station to ensure the viability and vitality of the new town centre is well established in the first 10-15 years of development. The 2ha of retail/commercial land located on the western side of the station is large enough to accommodate a second shopping centre as a separate identity, while still achieving the residential and commuter parking targets. Without a staging plan, this area could be developed early and significantly affect the establishment of the major centre on the western side of the railway line...

Submission on the Warnervale Town Centre Exhibition (contd)

- *Lack of Main Street focus.* The proposal (fig 5.6 of the DCP) shows a 3 storey shopping centre stepping down the slope of the southern side of Main Street. Concern is raised that the development of this shopping centre will significantly detract from the Main Street focus envisaged for this town centre. The pedestrian links (fig 6.1) focus on an internal pedestrian path through the shopping centre with only one link to the Main Street and one to the Civic Square. The DCP identifies the civic square as being located on Council land. There does not appear to be any funding régime for details within the DCP to support this proposal. Main Street is likely to become a secondary focus with even less focus and economic viability for shops on the northern side of the Main Street. Council staff have strived to ensure that both sides of Main Street are active, vibrant and viable. There is no evidence given that this design will achieve these objectives, considered vital to the development and sustainability of this centre. Further, the location of the town square, library, knowledge centre and Arts & Cultural Facility is not integrated into the heart and focus of Main Street. These facilities have been separated from the shopping centre, located opposite the aquatic centre. This is contrary to Council's objective of providing an integrated regional community based facility within the centre of town which would serve as the focal point of town's activity and vitalisation of the Main Street.
- *Development Levies.* There is a lack of certainty as to what precinct facilities Council can charge for under s94. (ie aquatic centre, integrated child and family centre, youth space and arts and cultural centre) and the SIC does not provide sufficient detail to assess the total cost of each item against the amount recouped by the levy and whether sufficient funds will be available to complete the items identified in a timely manner. Despite repeated requests, there has been no consultation with Council on the total amount of these combined levies prior to exhibition. Therefore, staff have been unable to assess the impacts these may have on affordability or likely land take-up rates. Meetings prior to exhibition were promised by the Minister and the Director General of the DoP, but did not eventuate.
- *Aquatic Centre precinct.* The SEPP provisions in relation to the Aquatic Centre precinct are overly restrictive in the permitted uses that would be considered complementary to the development of an aquatic and recreational facility. Uses such as allied health activities, sports medicine and the like should be included.

Submission on the Warnervale Town Centre Exhibition (contd)

CONCLUSION

A comprehensive submission has been prepared on the WTC outlining the issues of concern to Council. It addresses legal and technical issues as well as significant issues which will affect the functionality of the whole precinct and beyond for residents and visitors to the precinct. Council's main focus is to ensure that the WTC proposal creates an integrated and economically viable town centre in the first instance with appropriate retail, commercial, entertainment and community services, open space and high amenity residential development. The development of a new town centre, transport interchange and residential precinct is a rare opportunity in the planning for growth within any Local Government Area on the eastern seaboard. Council needs to ensure it is planned and executed in the most viable and practical way within the limits of its location and constraints..

Enclosures

***Draft Submission
Plan of Town Centre Precinct***

12 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

098 Submission on the Wyong Employment Zone

F2004/07714: SJD:SJD

SUMMARY

Planning documentation for the Wyong Employment Zone (WEZ) rezoning has been placed on public exhibition by the Department of Planning. Council's submission covers the main issues and outlines recommended changes.

RECOMMENDATION

- 1 That Council make a formal submission on the Wyong Employment Zone Rezoning to the Department of Planning.**
- 2 That Council make a formal submission to the Department of Planning on the Wyong Employment Zone and associated documentation along the lines of the attached draft submission.**
- 3 That Council make representations to the Minister seeking an exemption from the proposed State Infrastructure Charge for the Wyong Employment Zone and requesting that the Wyong Employment Zone rezoning proceed rapidly to gazettal.**

INTRODUCTION

Following a request from Council, the Minister for Planning "called in" the WEZ on 3 July 2006, under Schedule 3 of the SEPP (Major Projects) 2005. The Minister considers that the precinct is of regional importance, as identified in the draft Central Coast Regional Strategy (CCRS).

Council has taken on the role similar to an applicant whereby staff have prepared the State Significant Study Report, Biocertification Application, Section 94 Plan and Development Control Plan.

The planning documents which are currently on exhibition by the Department of Planning, together with Council's own documents, being the Section 94 Contribution Plan and DCP, reflect an integrated approach to the development of a difficult site which will create an employment precinct of approximately 300ha while retaining and enhancing significant environmental values.

Submission on the Wyong Employment Zone (contd)

State Government Proposed State Infrastructure Charge (SIC)

In addition to the Section 94 contributions discussed in this report, the State Government has stated that it intends to introduce an SIC on development within the WEZ and also on future development within the greater Warnervale area. The works to be funded from the levy include:

Infrastructure Item	Contribution
Sparks Road upgrade between the F3 and Albert Warner Drive	\$6.6 million
Sparks Road upgrade between Albert Warner Drive and the Pacific Highway	\$12.1 million
F3 Interchange with Sparks Road	\$3.4 million
Planning, delivery and implementation	\$.25 million
TOTAL:	\$22.4 million

The amount of the levy is \$91,000 per hectare. This will significantly impact the financial viability of development within the WEZ. It should be emphasised that the WEZ will contain employment generating development. The demand for most facilities to be funded by the proposed Regional Infrastructure Levy is generated by residential development – not employment generating development. In fact, local employment is one of the key infrastructure elements needed to support any population growth and therefore should not be subject to an SIC. On this basis, Council previously sought an exemption from the Minister for development within the WEZ to be excluded from the SIC. To date, the Minister has not responded to this request. It is therefore recommended that further representations be made to the Minister seeking this exemption. The WEZ should clearly be exempt from any SIC, on the basis that the Minister has not applied any SIC to employment lands on the retail and commercial core of the Warnervale Town Centre. This principle of exempting land zoned for employment generating uses from the imposition of any state levy was strongly argued by senior DoP staff during their briefing of Councillors on 27 February 2008. Based on the Department's own argument, a consistent approach would therefore result in all employment lands, ie all lands within the WEZ, benefitting from the same exemption.

BACKGROUND

The WEZ proposal is largely the same as Council's original proposal. Council staff have prepared the majority of the documentation to support the proposal which is being publicly exhibited by the Department of Planning. The main changes include:

- Preparation of a draft SEPP amendment to Schedule 3 of the Major Projects SEPP. This involved converting Wyong LEP 1991 zones into zones under the Standard Instrument (Local Environmental Plans) Order, 2006. This includes IN1 – General Industrial, SP2 – Infrastructure and E2 – Environmental Conservation.

Submission on the Wyong Employment Zone (contd)

- Minor adjustments in boundaries to conservation zones to enable biocertification of the Environmental Planning Instrument under Section 126G of the NSW *Threatened Species Conservation Act, 1995*.
- Replacement of the previously proposed "business park" with "general industrial" style use in Precinct 14.

The Department of Planning is publicly exhibiting the following documents for the WEZ.

- Draft State Environmental Planning Policy (Major Projects), 2005 (Amendment No. 21), State Significant Site Study
- Draft Infrastructure Plan
- Biodiversity Certification Report; and
- Various technical documents.

Public exhibition dates are 13 February 2008 to 19 March 2008. In conjunction with the Department's exhibition, Council is also publicly exhibiting a draft Section 94 Contribution Plan and draft Development Control Plan for the WEZ to ensure that the development industry and the wider community is aware of all the developer levies and controls that will apply to development within the precinct. These Plans will be reported to Council separately for adoption following completion of their exhibition.

COUNCIL'S SUBMISSION

A submission has been prepared on the WEZ outlining major issues of concern to Council. The most important issue is the removal of the State government's State Infrastructure Contribution (SIC) from employment lands. Other points in the submission cover legal and technical issues with the draft SEPP amendment to Schedule 3 of the Major Projects SEPP and the draft Special Infrastructure Contributions Plan from which the SIC is derived.

The major issues raised in Council's submission include:

Council's role in the development of the current rezoning of the WEZ precinct has been similar to that of 'applicant'. WSC staff have prepared the rezoning, undertaken the studies, negotiations etc, prepared the Biocertification request and much of the information that forms the proposal currently on exhibition. Overall, Council's review of the documentation is positive for the project. The major issues relate to the SIC and the threat to the viability of development of WEZ should Precinct 14 (the Terrace Towers proposal) proceed along independent lines to the remainder of the WEZ area.

Submission on the Wyong Employment Zone (contd)

Council has previously sought an exemption from the SIC for WEZ. To date no reply to this request has been received. The exhibition material, however, imposes a \$91,000/ha SIC on the WEZ. Staff do not agree that such a charge should be applied to employment generating land when Section 94 and levies have already been applied to residential land and the workers (aka residents) have already contributed to the residential areas. There is also discrepancies in how the SIC is added up and no indication of when it is to be spent.

Whilst not part of the rezoning exhibition, staff are also concerned that the DoP is considering subdivision of Precinct 14 (Terrace Towers) on the western side of the F3 as a Part 3A Application (State Significant). It is Council's understanding that that proposal seeks to separate the precinct from the remainder of the WEZ, including physical works relating directly to the Integrated Water Cycle Management Scheme for the whole of the WEZ. Should this precinct be developed independently of the rest of the WEZ, the cost distribution across the remainder of the WEZ may increase to a level that it will affect its viability further. Council should seek assurance from the State Government that this is fully taken into account in assessing the Part 3 Application from Terrace Towers.

The key points arising from these two issues are:

- 1 Why is the State Government adding a quarter to a third to the cost of contributions for employment generating development when the residents are already paying Section 94 funds and levies?
- 2 What is the breakdown of items to be paid for by the SIC and where is the remainder of the funds to come from?
- 3 What guarantees are there that all the WEZ development will contribute to the critical Integrated Water Cycle Management System and why isn't this part of the proposed planning controls?
- 4 Will Council be able to adopt its Development Control Plan for the WEZ that contains important development guidelines for the whole area under the current planning legislation?

The submission also includes legal and technical issues with the draft Development Control Plan, draft SEPP Amendment to Schedule 3 of the Major Projects SEPP and the draft Special Infrastructure Contributions Plan.

Attachment 1

Draft Submission on Wyong Employment Zone (8 pages)

Submission on the Wyong Employment Zone (Attachment 1)

Draft Submission on Wyong Employment Zone Exhibition

Introduction

Planning documents for the Wyong Employment Zone (WEZ) rezoning have been placed on public exhibition by the Department of Planning. Council's submission covers the main issues and outlines recommended changes.

There have been some significant delays since 3 July 2006 when the Minister decided to 'call in' the WEZ under Part 3A of the *Environmental Planning and Assessment Act, 1979*. The decision to exhibit these documents is an important step and it is hoped that the Minister proceeds rapidly to gazettal of the rezoning. Therefore Council, on behalf of the Community, is very pleased to see the Department of Planning making these plans available for public comment.

The planning documents which are currently on exhibition by the Department of Planning, together with Council's own documents, being the Section 94 Contribution Plan and DCP, reflect an integrated approach to the development of a difficult site which will create an employment precinct of approximately 340 hectare while retaining and enhancing significant environmental values. A Biocertification Report has also been prepared which switches off certain provisions under the *Threatened Species Conservation Act, 1995* and will create development certainty in areas where development is proposed to occur.

Council considered a report on the public exhibition of the proposed WEZ on 12 March 2008. At the meeting Council resolved xxxxxxxx

Major Issues**Environmental Planning Instrument (EPI) provided by Schedule 1 Amendment to SEPP (Major Projects) 2005 (Amendment No 21)****Zonings and Mapping**

Conservation arrangements have not been made with the owner of Lot 8 DP 240709, Jack Grant Drive, Warnervale. The front of this property has been inadvertently zoned IN1 – General Industrial by the Department of Planning. Agreement was not reached with respect to conservation offsetting by way of legal agreement with this land owner. The inclusion of the property creates an inconsistency with respect to the biocertification offsetting proposal. If it is to be included the Section 94 amounts will need to be significantly increased to cover acquisition of additional land covered by agreements elsewhere.

Land dedication and embellishment provisions should be added for the landscape buffers fronting Sparks Road and Hue Hue Road. These should be identified on the draft zoning map (LIN 001) or land reservation map (LRA 001).

Submission on the Wyong Employment Zone (Attachment 1) (contd)

The Roads and Traffic Authority (RTA) is in the process of developing plans to upgrade Sparks Rd. These plans will require additional land to be acquired along Sparks Road for road widening and intersection upgrades. The RTA should be required to specify these areas in order to ensure that they are identified for acquisition purposes on the draft zoning map.

The vegetated part of the AGL site (bordering Sparks Road) forms part of a wildlife corridor. This should be recognised in zoning restrictions to ensure that no further clearing occurs at the rear of the AGL Gas site.

Obstacle Limitation Surface (OLS) contours immediately surrounding the Warnervale airstrip need to be incorporated onto the Obstacle Limitation Surface Map – OLS 001.

Schedule 1 – Amendments (WEZ Environmental Planning Instrument)

A DCP can only provide detail to a Council LEP. The Minister's EPI, will almost certainly override Wyong LEP, 1991 and as such Council's current (and any future) DCPs will have no applicability. The draft SEPP (Major Projects), 2005 (Amendment No 21) is an EPI, not an LEP, because it is made by the Minister (under Section 74B & 74C of the Environmental Planning and Assessment Act, 1979). This issue has been discussed with staff from the Department of Planning and they have agreed that this problem needs to be rectified. This needs to happen before the WEZ rezoning is approved by the Minister.

The Department of Planning has converted Council's original zoning strategy for the WEZ into zones under the Standard Instrument (Local Environmental Plans) Order, 2006. This includes:

- IN1 – General Industrial.
- SP2 – Infrastructure.
- E2 – Environmental Conservation.

The Standard (Local Environmental Plan) Template has different land use definitions than Wyong LEP, 1991. A number of changes need to be made in order to expand the range of permissible uses in the WEZ. Council is currently conducting a major review of it's zonings and this is still in progress e.g. "industry" needs to be added to permit the proposed brewery in the Warnervale Business Park etc. (see Appendix 1 for details). It will be important to ensure consistency with the WEZ EPI in order that they are similar to the zoning conversions which Council is working on as part of Wyong Shire LEP 2011.

The SEPP needs to be amended to prohibit direct vehicle access onto Sparks Road and Hue Hue Road except in designated road access points to ensure that new development does not gain direct access to State Roads (see existing Clause 37 Prohibited Access Clause in WLEP 1991).

Submission on the Wyong Employment Zone (Attachment 1) (contd)

A number of technical issues exist with the wording and interpretation of Clauses in the WEZ EPI which will require further work:

- **Clause 16 - Additional Permitted Uses** – The intention of this clause was to facilitate the development of an automotive and transport precinct. A provision should be added to this clause to ensure that permissible uses are restricted to transport and automotive purposes only.
- **Clause 20 - Rainwater Harvesting** – Needs to be amended to read, “Shall require compliance with Council's Porters Creek Stormwater Harvesting Scheme, not a rainwater harvesting scheme approved by the Minister”.
- **Clause 22 - Public Utility Infrastructure** – Needs to include provisions for connection of fibre optic cabling under this clause.
- **Clause 23 – Acquisition of Land in the WEZ** - Clause 23(2) is grammatically unclear and Clause 23(3) should be removed as it would allow any land use to occur on sensitive land.
- **Clause 24(6) - Exemptions to Development Standards** – This provision is excessive and should be removed.
- **Clauses 17 - Design, 18 - Sustainability, 20 - Rainwater and 21 - Subdivision** - Is vague and gives limited policy guidance. It is recommended that they be removed as Council's WEZ DCP already provides adequate guidelines.

Special Infrastructure Contributions (SIC)

An additional \$91,000 SIC charge will be applied to new development on top of Council's existing Section 94 charges by the Department of Planning. The WEZ should clearly be exempt from any SIC, on the basis that the Minister has not applied any SIC to employment lands on the retail and commercial core of the Warnervale Town Centre. This principle of exempting land zoned for employment generating uses from the imposition of any state levy was strongly argued by senior DoP staff during their briefing of Councillors on 27 February 2008. Based on the Department's own argument, a consistent approach would therefore result in all employment lands, ie all lands within the WEZ, benefitting from the same exemption.

The imposition of the SIC will significantly impact the feasibility of development within the WEZ. The demand for most of the items funded by any SIC in the WEZ or other development precincts is generated by residential development, not employment generating development. In fact, local employment is one of the key infrastructure elements needed to support population growth and therefore should not be subject to the State government's SIC. In fact, the WEZ will be the catalyst for stimulating the residential housing market from which further SIC contributions will be levied.

Submission on the Wyong Employment Zone (Attachment 1) (contd)

The draft Section 94 Contribution Plan for the WEZ identifies a contribution from the RTA of \$21.1 million towards a number of intersection upgrades on Sparks Rd and the F3 – Interchange (see Appendix 2). The SIC appears to only cover the cost of the following items:

- Sparks Rd upgrade between the F3 and Albert Warner Drive.
- Sparks Rd upgrade between Albert Warner Drive and the Pacific Highway.
- F3 Interchange with Sparks Road.
- Planning delivery and implementation.

The total contribution of the SIC for the WEZ is \$22.4 million and only appears to cover the cost of one of the F3 interchanges and there is no mention of other intersection improvements required for the WEZ. Council will be unable to adopt the WEZ Section 94 Contributions Plan until such time as a firm commitment to fund the \$22.1 million contribution is received from either the RTA or the State Government. There is no indication of when the funds collected under the SIC are to be spent as well.

The figures for Net Developable Area (NDA) do not match the NDA figures from the WEZ Section 94 Contribution Plan. This may be because the Department of Planning calculates NDA differently to Council in that it includes internal streets plus half the width of any adjoining access roads. It may also be because it includes existing developed areas. Also, having two separate definitions for NDA could prove confusing for developers and land owners.

A number of technical issues exist with the wording and interpretation of the SIC Plan. These are outlined as follows:

- **Clause 3.1** – A clause should be inserted into this document to ensure that this plan be read in conjunction with Council's draft WEZ Contribution Plan.
- **Clause 4.2** – There is no reference to administration costs being funded from the SIC, yet \$250,000 has been set aside for planning, delivery and implementation under Clause 9.3. This inconsistency needs to be rectified.
- **Clause 4.8** – States that Council and the applicants are to provide utilities. This should be corrected to point out that Council provides water and sewer but other authorities are responsible for the provision of other utilities e.g. natural gas, electricity etc.
- **Clause 4.9 & 4.10** – Supporting documentation behind the costs associated with upgrading sections of Sparks Rd should be provided.

Submission on the Wyong Employment Zone (Attachment 1) (contd)

- **Clause 4.11** – This will mean that there will be a shortfall in funds for the SIC. Will the State government meet this short fall or has it been taken into consideration when calculating the SIC. Again, the detailed calculations behind the costs and NDA need to be made publicly available.
- **Clause 9** – Need to clarify who is responsible and when different infrastructure items will be provided.
- **Clause 10.2** – A definition of “access road” is required. Does this mean Mountain Rd or Sparks Rd?
- **Clause 10.3** – States that existing developed areas that are subject to a “change of land use zones” are not exempt from the SIC. This would include all land within the Warnervale Business Park and also the current proposal for a brewery at Burnet Close. The State government will not be able to collect the SIC from the existing developments which have been approved in the Warnervale Business Park. This clause also makes reference to “Sydney Water”. This should be changed to “the Gosford Wyong Councils Water Supply Authority”.
- **Clause 11.1** – Council requires the supporting calculations to calculate the credit amounts.
- **Clause 12.1** – Will Council be a party to the works in kind agreements? If so, a template should be provided for Council to comment on.
- **Clause 12.3** – Requires payment of the SIC prior to the issue of a subdivision certificate. This is clearly too late in the development process. Since frequently facilities must be built along with the subdivision.
- **Clause 12.4** – The option of using a bond should be removed unless the State government is going to be responsible for looking after them.
- **Clause 13.3** – Council would need to be notified that the agreement has been executed.
- **Clause 14.1 and 14.2** – These clauses make reference to both quarterly and annual indexation. Which one will apply?
- **Clause 14.3** – Is there a land component for the SIC? It has not been identified. If not, there is no need for this clause. Clause 14.3 should be amended to be in line with Council's method of indexation.
- **Clause 15.1** – When are the SIC payments required to be transferred from Council to the State Government. Some clear guidelines are required.

Submission on the Wyong Employment Zone (Attachment 1) (contd)

Consistent planning approach needs to be taken with Precinct 14 which integrates with the WEZ

While not part of the rezoning exhibition, Council is concerned that the DoP is considering a separate proposal for Precinct 14 (Terrace Towers) on the western side of the F3 as a Part 3A Application (State Significant). It is Council's understanding that this is a separate proposal from the remainder of the WEZ, which includes its own distinct development controls and its own IWCM Strategy which is different from Council's Porters Creek IWCM. Should this precinct be developed independently of the rest of the WEZ, the cost distribution across the remainder of the WEZ may increase to a level that will affect its viability further. Council should seek assurance from the State Government that this is fully taken into account in assessing the Part 3A Concept Plan and Project Application from Terrace Towers. This point has previously been made to the Department of Planning when Council was asked to comment on the Director-General's Environmental Assessment Requirements for the Concept Plan and Project Application of Warner Industrial Park late last year.

Submission on the Wyong Employment Zone (Attachment 1) (contd)

APPENDIX 1**CHANGES TO ZONINGS****Zone IN1 – General Industrial**

Add – “boat repair facility”, “building identification sign”, “business identification sign”, “earthworks”, “emergency services facility”, “environmental protection works”, “filming”, “helipad”, “liquid fuel depot”, industry”, “emergency services facility”, “rainwater tank”, “research station”, “sewage treatment plant”, “waste or resource transfer station”, “water recycling facility”, “water storage facility”, “water treatment facility”, “advertisement”, “aquaculture”, “bushfire hazard reduction works”, “carparks”, “telecommunications facility”, “public utility undertaking”, “community facility”, “waterbody (artificial) or artificial waterbody”, “excavation”, “fill”, extractive industry”, “flood mitigation works”, “electricity generating works”, “passenger transport facility”, “place of public worship”, “recreation area”, “recreation facility (indoor)”, “telecommunication facility”.

Remove – “neighbourhood shops”

Note: Staff from the Department of Planning should continue to liaise with Council staff before finalising the EPI for the WEZ. Work is still evolving on the conversion of zones and land uses from Wyong LEP 1991 into the Standard (Local Environmental Plan). Work is still ongoing with respect to the conversion of conservation and special use zonings. As a result changes may also be required for the E2 – Environmental Conservation and SP2 – Infrastructure zone.

Submission on the Wyong Employment Zone (Attachment 1) (contd)

APPENDIX 2

INTERSECTION IMPROVEMENTS REQUIRED ALONG SPARKS ROAD AS PER SECTION 94 CONTRIBUTION PLAN - WEZ

Intersection	Amount
Railway Rd/Albert Warner Drive	\$4,900,000
Sparks Rd/Burnet Close	\$3,823,040
Sparks Rd/Mountain Rd	\$3,823,040
Sparks Rd/Jack Grant Ave	\$3,058,432
F3 interchange South Bound	\$3,276,891
F3 interchange North Bound	\$3,276,891
Total	\$22,158,294

**099 Renewal of Lease to Family Child Care Services Central Coast
Incorporated at Lot 3 Part 10 DP 3136, 31 Alison Road, Wyong
(Attachment 1)**

Locality Plan



WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

**099 Renewal of Lease to Family Child Care Services Central Coast
 Incorporated at Lot 3 Part 10 DP 3136, 31 Alison Road, Wyong**

F2004/12954 JMT

SUMMARY

Approval is sought to renew the lease of premises at 31 Alison Road, Wyong

RECOMMENDATION

- 1 *That Council grant a Lease of Lot 3 Section 10 DP 3136 at 31 Alison Road, Wyong to Family Child Care Services Central Coast Incorporated for a term of two years with an option to the lessee for renewal of the lease for a further two years, commencing 1 April 2008 at a rental of \$14,000 per annum, inclusive of GST, and otherwise generally on the same terms as the current lease.***
- 2 *That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Lease between Wyong Shire Council and Family Child Care Services Central Coast Incorporated.***
- 3 *That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between Wyong Shire Council and Family Child Care Services Central Coast Incorporated.***

BACKGROUND

Council leases Lot 3 Section 10 DP 3136 at 31 Alison Road, Wyong (the Premises) to Family Child Care Services Central Coast Incorporated (Family Child Care) for office and administration purposes for its Family Day Care Scheme and other community services.

The current lease, for a period of five years at an annual rental of \$12,000, expires on 31 March 2008.

Family Child Care has requested that the lease be renewed, on the expiration of the current lease, at rental of \$14,000 per annum for a term of two years with an option to the lessee for renewal of the lease for a further two years, generally on the same terms.

The Premise was purchased by Council in 1996 from State Forests following acceptance by Family Child Care of initial lease terms which included rental of \$14,755 with annual increases in rental linked to the Consumer Price Index.

**Renewal of Lease to Family Child Care Services Central Coast Incorporated
at Lot 3 Part 10 DP 3136, 31 Alison Road, Wyong (contd)**

At its meeting held on 12 February 2003, Council resolved to renew the lease for five years at a reduced rental of \$12,000 per annum without provision for Council to increase the rental, subject to Family Child Care accepting full responsibility for all aspects of maintenance of the premises and payment of all outgoings including rates and user charges. The reduction in rental was sought on the basis that Family Child Care is funded by the Federal Government's Department of Families, Housing, Community Services and Indigenous Affairs to provide family day care schemes and Family Child Care does not have any surplus operation funds.

The current lease provides an option to the lessee to renew the lease for a further five years. Family Child Care declined to exercise the option and has requested instead a term of two years with an option for a further two years. Family Child Care currently leases the Council building and two others adjoining but not owned by Council to accommodate its operations of six programmes. A strategic planning objective of Family Child Care is to have accommodation for all of its 25 staff in the one building by 2010. It is the intention to relocate its operation, however this is not expected to occur inside two years.

Family Child Care has provided the following information in support of its request for a new lease:

- *“Current lease requires maintenance to be covered by us, the Lessee, which is a considerable cost to our budgets each year.*
- *In 2003 the Acting General Manager and Mayor granted us a concessional rate after a consultation process was conducted. Since that time our programmes which support vulnerable families in the Wyong Shire have increased.*
- *FCCSCC is a not for profit organisation.*
- *We are funded by Commonwealth and State Governments.*
- *We have had a 25% reduction in Network support funding from the Commonwealth Government for our Family Day care programme in 2007.*
- *We have strong partnerships with Wyong Council and are now auspicing the Partners in Parenting Programme which was located with Council up to 2005.*
- *Any surplus funds have been allocated to the purchase of small vans to transport our vulnerable families to our and other identified programmes. One of these programmes being the Babes with Babes program which transports up to 8 teenage mums and their babies to Blue Have SACC every Monday for the mother to resume studies through TAFE outreach programmes.*
- *We support 98 small home based childcare businesses in the Wyong Shire which generates over \$2 million of Childcare benefit funding each year.*
- *We offer 2 supported playgroups with free transport to referred families each week. One being specifically for aboriginal families in the northern end of the Shire.”*

12 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

**Renewal of Lease to Family Child Care Services Central Coast Incorporated
at Lot 3 Part 10 DP 3136, 31 Alison Road, Wyong (contd)**

Council should consider renewal of the lease for the increased rental offered of \$14,000 per annum on the basis that Family Child Care has agreed to accept responsibility for maintenance of the building, including all major and minor maintenance over the term of the proposed lease and to meet all outgoings, including rates and user charges.

Attachment 1

Location plan (1 page)

100 Recreation Smoke – Free PolicyF2004/06003 SP:SP

SUMMARY

This report examines the issues and effects of smoking at Council's sporting, recreation and open space areas.

RECOMMENDATIONS

That Council place the attached draft "Recreation Smoke-Free" Policy on public exhibition for a period of 28 days to enable the public to make comments or submissions and adopt subject to no significant objections being raised.

BACKGROUND

Smoking in enclosed public places in NSW is regulated by the NSW *Smoke Free Environment Act 2000*. These laws however, make no provision for controlling outdoor smoking in places where people, especially children congregate, such as playgrounds, sporting grounds and reserves.

This report discusses the adoption and implementation of a comprehensive smoke – free policy at a variety of recreational facilities throughout the shire in the interests of the health of our local community and wellbeing of our environment.

HEALTH AND ENVIRONMENTAL IMPACTS

Community attitudes towards smoking have changed over the past decade following the mounting evidence showing the harmful effects of passive smoking. A number of well-publicised court cases have highlighted many of the issues associated with smoking and the damaging effects on people's health.

Research has found that illnesses associated with passive smoking include lung cancer, coronary heart disease, irritation of the eyes and nose, respiratory disease, Sudden Infant Death Syndrome (SIDS), lower birth – weight babies (where mother was exposed to passive smoke), asthma attacks, middle ear disease and respiratory symptoms (e.g. coughing, wheezing). Environmental tobacco smoke is particularly harmful to children because:

- Their lungs and body weight are small, so the dangerous substances in smoke are relatively more concentrated and therefore potentially more harmful;
- Children are not always able to move away from other people's smoke, as are adults.

Recreation Smoke – Free Policy (contd)

In addition to the health impacts, cigarettes are an environmental issue. Cigarette butts are not biodegradable and take up to five years to break down. The introduction of smoke – free zones will help reduce the amount of cigarette butt litter and provide a substantial cost saving through reduced clean -up costs

ACTIONS BY OTHER ORGANISATIONS

Since the mid 1990's smoke-free workplace policies have been introduced extensively throughout the public and private sectors. While all State and Federal government offices have become smoke free, bans and restrictions have also been introduced in many shopping centres, hospitals, school settings, entertainment venues, as well as in the transport sector.

In 2000, the NSW Parliament passed the *Smoke Free Environment Act*, which prohibits smoking in a wide range of public places. The Act was amended in 2001 and since July 2007, smoking has been banned from all enclosed public places, except the Sydney Casino. The Act does not cover outdoor public places.

Launceston City Council became the first Australian Local Government Authority to prohibit smoking around playgrounds and sporting fields in 2003. Since that time, a further 32 NSW Councils have implemented smoke – free zones around a range of community facilities including foreshore reserves, beaches, buildings and outdoor dining areas (Enclosure).

Gosford City Council adopted a recreation smoke - free policy in March 2005, applicable at the following locations;

- Within 10 meters of children's play areas and facilities for the use of children;
- All sporting grounds, recreational reserves, beaches and foreshore reserves;
- Footpath areas within 5 metres of the entrances to Council buildings.

The introduction of recreation smoke free zones at playgrounds, sporting grounds, at all Council run events is endorsed by the NSW Local Government Association and the Wyong Shire Council Sports Committee.

Recreation Smoke – Free Policy (contd)

LEGISLATION

Council has sufficient statutory powers to introduce recreation smoke- free zones on Council owned and controlled land by virtue of the NSW Local Government Act 1993. Under the Act, Council has the ability to regulate activity in a public place by means of regulation by notice. Specifically, Council is empowered to:

- Erect suitably worded and strategically placed notices in public places prohibiting smoking;
- Serve by means of an authorised person, a maximum penalty of 10 penalty units upon any person who fails to comply with the terms of any such notice. Note: 1 penalty unit= \$110. Council has the discretion to vary the penalty up to the maximum;
- Otherwise prohibit smoking in any place of which Council is the owner or occupier, as a condition of entry to that place.

Under Section 632 of the Local Government Act 1993, the only way Council can regulate the use of public places is through giving notice of what activities are prohibited, via signage.

PROPOSED RECREATION SMOKE – FREE ZONES

To protect the health of our local community and wellbeing of our environment, recreation smoke- free zones are proposed in the following areas;

- 1 At all sporting facilities. This includes sports grounds and their associated infrastructure such as amenities buildings and car parks; tennis court and netball courts; skate and BMX parks; swimming centres; and golf courses.
- 2 Within 30 metres of playgrounds on all parks and reserves.
- 3 Within 10m to the side and rear of red and yellow swimming flags on all patrolled beaches when patrols are present, and within 10m of rocks pools, lake and ocean baths;
- 4 Within 10m of entrances to Council owned or managed buildings, including balconies and covered areas of those buildings;
- 5 Within 10m of all bus stops.

As previously identified in this report, research identifies Environmental Tobacco Smoke is especially harmful to children due to their immature physical development and inability to move away from other people's smoke. The proposed recreation smoke – free areas are locations which are used extensively used by children and regularly have high concentrations of young children and youth in the area.

Recreation Smoke – Free Policy (contd)

IMPLEMENTATION

The implementation of such a policy will require a number of key elements and will involve the cooperation of a range of services across Council. These key elements will include a public awareness campaign; signage; the development of smoke – free policies with sporting groups. The emphasis for implementing this policy will be on public education and awareness. It is considered to be more practical to rely on peer group pressure by the public to discourage smoking in the smoke free areas rather than active enforcement by Council's Rangers. These initiatives can be funded through existing programs and budgets, with no additional net financial impact to Council.

a) Public Awareness Campaign

With the introduction of any new public health initiatives, it is essential for organisations to undertake a public awareness / education campaign. In this instance, an awareness campaign would assist to identify the smoke-free areas throughout the shire and the health benefits to children and the wider community. Such a campaign will also allow Council the opportunity to focus on the positive public health and environmental components of the Policy, rather than be seen as simply applying a regulation onto the community.

The NSW Cancer Council and Central Coast Area Health have expressed a strong desire to support Council in the delivery of such an education campaign and become major partners in the delivery of this new health initiative. Central Coast Area Health has committed to provide \$5,000 in 2008/09 and a further \$5,000 in 2010/11 to the implementation of a public awareness campaign.

Council also works in partnership with The Cancer Council NSW under the Local Government Partnership Program. Under this partnership agreement, Council has provided a commitment to reducing the impact of cancer in their community. The NSW Cancer Council has committed to assist with the delivery of the new policy through advocacy and integration into education initiatives and community programs.

The implementation of this public awareness / education campaign could be coordinated via Council's Communication Department. In addition to the financial contribution from Central Coast Area Health, \$5,000 from the Communication Department's existing media budget could be redirected in 2008/09 and 2009/10 to implement this initiative. A summary of the costs associated to implement a public awareness / education campaign is provided in Attachment 1.

b) Installation of Signage

The installation of smoke-free signage at designated locations within the Shire for the local community and visitors will be necessary to identify areas where smoking is not permitted. It is recommended that signage is initially placed in areas where children concentrate in large numbers. Accordingly, the priority areas would be playgrounds followed by sporting facilities and patrolled beaches.

Recreation Smoke – Free Policy (contd)

Council currently replaces approximately 30 of the Section 632 Ordinance signs at recreation reserves per annum throughout the Shire, due to wear and tear and vandalism. These signs can be upgraded to include the No – Smoking symbol and text and progressively rolled out at designated venues at no additional cost to Council.

Under this existing wear and tear and vandalism program, it is estimated that signage would be installed at all playgrounds, sporting facilities and patrolled beaches within 8 years. Signage would be installed at all the 135 playgrounds within five years, at the 84 sporting facilities during the following 3 years and at the 6 patrolled beaches in the following year. The installation of signage under this program would be at no additional cost to Council. All other locations could be progressively rolled out over subsequent years as part of Council's existing signage replacement program.

If this program was to be accelerated and Council wished to replace all of the existing regulatory signage within the first year with new regulatory signs that incorporate the No Smoking symbol at all of the proposed recreation smoke – free locations throughout the Shire, the estimated replacement cost to replace 1,831 signs is \$412,000 at \$225 per sign. There are no additional costs to Council to provide updated Section 632 ordinance signage unless the program is accelerated. A detailed summary of the costs associated to install signage at all of the proposed recreation facilities is provided in Attachment 1.

As a NSW Cancer Council - Local Government Partner, Council has preferential access to the NSW Cancer Council's Annual Community Grants Program, which provides up to \$2,500 p/a to assist with the development and installation of no smoking signage. These funds would provide approximately 11 new Regulatory Signs and will assist with the installation of signage at playgrounds, sports grounds and patrolled beaches within the aforementioned 8 – year period.

As the preferred strategy is to raise public awareness through an ongoing education program and rely on the general public to discourage smoking in smoke free zones, then the need to install signage would be minimal. Advising the public of the new agreed smoke free zones will be via advertising / education rather than reliance on installation of new signs.

c) Development of Smoke Free Policies for User Groups

As part of the new smoking policy, it is proposed that Central Coast Sporting Clubs and Associations, and community groups be encouraged to develop smoke-free policies for implementation during their annual season and events. The NSW Cancer Council and Central Coast Health have expressed a willingness to assist clubs in developing policies that identify ways to successfully operate a smoke-free environment.

The development of smoke-free policies by local sporting clubs, schools and community groups, who are the major users of sports grounds, would assist to raise the public awareness of smoke-free zones, and facilitate the implementation of this new initiative.

Recreation Smoke – Free Policy (contd)

Furthermore, as the majority of Central Coast Sporting Associations use both Wyong Shire Council and Gosford Council sports grounds for their weekly competitions, the implementation of the policy by both Councils would provide a clear and consistent message across the entire Central Coast.

The development of smoke-free policies would also form part of the standard conditions of use of Council sports grounds issued to these groups. Clubs and community organisations would be given a three – year period in which to have developed a smoke- free policy in conjunction with NSW Cancer Council, Central Coast Health and Council. After this time, the future use of Council's recreation facilities would be subject to the provision of a policy. This action could be achieved at no extra cost to Council with the sporting clubs self – monitoring the smoke – free zones. Local sporting clubs and associations would receive specific information via direct mail, with the new policy to be included in all sports ground information booklets and hire agreements.

d) Plans of Management

Under the Local Government Act 1993, community land is required to be used and managed in accordance with Plans of Management. The inclusion of Smoke – Free Zones within these areas would be consistent with many of the objectives within the existing plans of Management and would provide Council with statutory powers under the Local Government Act to enforce this condition, if it so chose to do.

Council has 16 Plans of Management of which 14 would require amendment to reflect this new policy. These plans would be amended to include this new provision as they are progressively updated for other purposes.

e) Enforcement

As previously mentioned, it is common for organisations to initially focus on education to achieve a high level of awareness and adherence prior to undertaking any enforcement of a new policy. Due to the highly emotive responses and negative feeling such enforcement is likely to generate within the community, a 2-year education and awareness campaign is recommended prior to any further Council review to determine if Policy enforcement should be considered in future.

Recreation Smoke – Free Policy (contd)

f) Action plan

Attachment 1 provides a five – year action plan which has been developed as a guide as to how Council could implement a Recreation Smoke – Free policy. While the NSW Cancer Council and Central Coast Area Health have committed funds for the implementation of this new policy, no additional investment over the five years will be required from Council.

The action plan is based on the priority installation of signage at playgrounds identified as high risk i.e. where young children congregate in significant numbers. Signage could be installed at all of the other locations identified the report at no additional cost as part of Councils annual signage replacement program, however, at a replacement rate of approximately 30 signs per annum, this program would take a significant number of years.

To facilitate the development of the public awareness campaign and installation of signage in smoke – free areas, existing funds can be utilised without any negative impact on these existing programs.

CONCLUSION

Community attitudes towards smoking have changed due to the mounting evidence showing the harmful effects of passive smoking. Research has shown that environmental tobacco harmful to the entire community, particularly children, who are more likely to develop chronic illness when regularly exposed to tobacco smoke than children who do not.

Smoke-free policies now exist in the workforce and in a wide range of public places. A number of major sporting venues and Councils throughout Australia have now implemented smoke– free policies, with many other Council's now considering such steps.

In advocating better public health for its residents, it is recommended that Council adopt a comprehensive recreation smoke – free policy around areas where children and the wider community congregate, and where they are often unable to move away from other people's tobacco smoke. It is believed this action will contribute to the health of the wider community and to creating healthier communities.

Recreation Smoke – Free Policy (contd)

REFERENCES

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Klepeis, N. Ott, W. Switzer, P, 2007. Real time measurements of outdoor tobacco smoke particles. *Journal of the Air Waste Management Association*, Vol 57, 522- 534.

Attachment 1
Attachment 2
Enclosure

Five- year proposed implementation and budget plan (1 page)
Recreation - Smoke Free Policy (3 pages)
Existing Local Government Smoke Free Policies

Recreation Smoke – Free Policy (Attachment 1)**Table 1 – Five- year proposed implementation and budget plan**

Action	Costs	Funding Source
Year 1 – 2008/09		
Public awareness Campaign	\$5,000 \$5,000	Central Coast Area Health. Wyong Shire Council via existing communication media budget.
Signage Playgrounds (37)	\$2,500 \$6,000	NSW Cancer Council Grant. Wyong Shire Council via existing Sign Replacement Program.
Total Council contribution	11,000	
Year 2 – 2009/10		
Public awareness campaign	\$5,000 \$5,000	Central Coast Area Health. Wyong Shire Council via existing communication media budget.
Signage Playgrounds (37)	\$2,500 \$6,000	NSW Cancer Council Grant. Wyong Shire Council via existing Sign Replacement Program.
Total Council contribution	\$11,000	
Year 3 – 2010/11		
Signage Playgrounds (37)	\$2,500 \$6,000	NSW Cancer Council Grant. Wyong Shire Council via existing Sign Replacement Program.
Total Council contribution	\$6,000	
Year 4 – 2011/12		
Signage Playgrounds (37)	\$2,500 \$6,000	NSW Cancer Council Grant. Wyong Shire Council via existing Sign Replacement Program.
Total Council contribution Additional Council funds	\$6,000	
Year 5– 2012/13		
Signage Playgrounds (24)	\$2,500 \$6,000	NSW Cancer Council Grant. Wyong Shire Council via existing Sign Replacement Program.
Total Council contribution	\$6,000	
Total Council contribution over 5 years	\$46,000	Funded through existing programs and budgets. No additional net financial impact to Council.

Recreation Smoke – Free Policy (Attachment 2)

Recreation Smoke-Free Policy

1 POLICY OBJECTIVES

The objectives of Wyong Shire Council in banning smoking in various Council areas are to;

- Protect the health of members of the community from the detrimental health impacts of secondary smoke in public places;
- Improve the health of community members;
- Improve public amenity and maintenance of Council property;
- Raise community awareness of the issues associated with smoking;
- Provide community leadership in taking measures to protect the health and social wellbeing of the community;
- Minimise cigarette butt pollution on open space areas

2 POLICY PRINCIPLES

This policy recognises that Council has:

- An obligation to promote public health outcomes where Council provides assets and services intended to be of benefit to children and other members of the community;
- A commitment to improve the natural environment and the amenity of the local area by reducing the amount of cigarette butt litter found in outdoor spaces;
- An understanding that the damaging affects of passive smoking is well documented
- An understanding that children are most vulnerable to the effects of passive smoking;
- Acknowledged that the indirect effects of people smoking in an outdoor areas can have on children including playing with and swallowing discarded cigarette butts; cigarette-derived particles accumulating on clothing and skin; and smoking causing sensory irritations such as eye watering, coughing, difficulty in breathing or asthma.

Recreation Smoke – Free Policy (Attachment 2)(contd)

3 POLICY STATEMENT

That smoke- free zones are declared in the following areas on Council owned and managed land in the following areas;

- 1 At all sporting facilities. This includes sports grounds and their associated infrastructure such as amenities buildings and car parks; tennis court and netball courts; skate and BMX parks; swimming centres; and golf courses.
- 2 Within 30 metres of playgrounds on all parks and reserves.
- 3 Within 10m to the side and rear of red and yellow swimming flags on all patrolled beaches when patrols are present, and within 10m of rocks pools, lake and ocean baths;
- 4 Within 10m of entrances to Council owned or managed buildings, including balconies and covered areas of those buildings;
- 5 Within 10m of all bus stops;

4 LEGISLATION

Under the NSW Local Government Act 1993, Council has the power to;

- Erect suitably worded and strategically placed notices in public places within the local government area of Wyong prohibiting smoking - Section 632 (1) and 2(e);
- Serve by means of an authorised person, a maximum penalty notice of \$1100.00 upon any person who fails to comply with the terms of any such notice - Section 679;
- Demand by means of an authorised person, the name and address of any persons reasonably suspected of failing to comply with the terms of any such notice - Section 680;
- Remove, by means of an authorised person, from community land any persons who fails to comply with the terms of any such notice – Section 681; and
- Prohibit smoking in any place within the local government area of Wyong, in respect of which Council is the owner or occupier, as a condition of entry to that place.

Recreation Smoke – Free Policy (Attachment 2) (contd)

5 ENFORCEMENT OF BANS

- In implementing Council's Smoke Free Policy, a program of community education and awareness, specifically targeting residents and visitors will be undertaken.

6 DEFINITIONS

"Smoke -free zone" means part of an outdoor area in which smoking is not permitted.

"Smoking" means smoking, holding or otherwise having control over an ignited smoking product. Smoking products include any tobacco or other product that is intended to be smoked.

12 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

101 Tathra Lifesaving Club National Campaign on Renewable Energy

F2004/00103 DJI

SUMMARY

Tathra Surf Life Saving Club has installed solar panels and a wind generator at the club to offset electricity usage. Further information on the installation has been obtained and Dr Matthew Nott has been invited to address Council on the details of the scheme.

RECOMMENDATION

- 1 *That the report be received and the information noted.***
- 2 *That Dr Nott be scheduled to address Council on 11 June 2008.***

BACKGROUND

At its meeting held on 23 January 2008 Council resolved:

"1 That Council seeks further information on the above proposed National Scheme not limited by;

- * Costings/benefits*
- * Seed funding required*
- * Federal Government Rebates*
- * Potential Sponsors*

for the many life saving club houses in Wyong Shire.

2 That Council invites Dr Matthew Nott to advise Council by way of an invited speaker's address on how the scheme started in Tathra and the support various communities have shown since the National program was launched."

Further Information Requested by Council

The Tathra installation was initiated by Clean Energy for Eternity Inc. in conjunction with Bega Valley Shire Council. Details of the installation, as published on the Internet, includes the following extract by Dr Matthew Nott:

Tathra Lifesaving Club National Campaign on Renewable Energy (contd)

"On Saturday 20 January the renewable energy project for the Tathra Surf Lifesaving Club was opened. Mayor Tony Allen officially launched the project, which includes a wind turbine and solar photo-voltaic cells on the roof of Tathra Surf Club. The next stage is to add a solar hot water service, which will see the Surf Club running with a negligible carbon footprint. The benefit of renewable energy for the surf club is threefold.

Firstly, the installation will save the surf club about \$1000 per year. More will be saved following the installation of solar hot water.

Secondly, education and awareness are important. We are showing people (lots of people in summer) that renewable energy can work. Remember that renewable energy is BY FAR the quickest way of reducing our dependence on fossil fuels and our greenhouse gas emissions.

Thirdly, we will be saving our atmosphere nearly 3 tonnes of carbon dioxide per year. That is a modest start, but when our kids are 20 years older, every tonne of CO₂ will be important.

The plan is to get every surf club in the country running on renewable energy before the end of 2007, and we have already had a lot of interest from surf clubs around the country. Clean Energy For Eternity will be meeting with Surf Lifesaving Australia shortly.

I would like to thank the Bega Valley Shire Council for their support in funding this project. The same assistance has been offered to the Pambula Surf Club and Bermagui Surf Clubs. I would also like to thank Steve Garrett and his team from Pyramid Power in Pambula for installing the system and working to a tight time frame. The Lions Club and Rotary have made large contributions, and the Australian Greenhouse Office has provided us with a \$4000 rebate. Communities and individuals on the South Coast have supported this project with their donations and their enthusiasm. "

Detailed cost information in relation to the installation has been sought from Dr Nott and Bega Valley Shire Council, however this has not yet been received.

Investigations have indicated that a similar installation is being considered by Killcare and Copocobana Surf Life Saving Clubs. Details of this installation and estimated costs are in attachment 1.

Tathra Lifesaving Club National Campaign on Renewable Energy (contd)

In summary:

- The cost of installing a system at each surf club would be \$35,426.
 - This cost could be offset by \$12,655 being:
 - * Renewable Energy Certificate - \$990
 - * Federal Government grant - \$11,665
- The Federal Government grant is 50% of the cost of the solar panels.
- The net cost of the project would therefore be \$22,271.
 - The net energy savings of 3400 kWh per annum would result in financial savings of about \$440 per annum or \$4,288 over a 15 year life assuming a 7% discount rate.

Based on the above seed funding and/or sponsorship of about \$18,000 over the 15 year life of the project would be required if the project was not further subsidised by Council.

While such a project is not financially viable it does present the environmental benefits of a reduction of over 3 tonnes of green house gases per annum and provides an excellent example to the community of using alternative power sources.

Invitation to Dr Nott

Dr Nott has accepted an invitation to address Council and is available to address the meeting of 11 June 2008.

Attachment 1***Quotation for installation of solar cells and wind generator at Killcare and Copacabana Surf Life Saving Clubs (1 Page)***

12 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

**Tathra Lifesaving Club National Campaign on Renewable Energy
(Attachment 1)**



SOMA POWER PTY. LTD.

T/AS SUNRISE SOLAR

49 VISTA AVE NORTH
COPACABANA NSW 2251
PH 02 43811531 FAX 02 43821880
Email sunrise@dragon.net.au
www.somapower.com.au

Manufacturer of SOMA WIND TURBINES
Sales, Installation and Service of
Solar / Wind Power Systems
BCSE Accredited, Lic. Electrical Contractor

BP SOLAR GRID CONNECT PV SOLAR SYSTEM PRICING (inc GST)

A grid connect system for the Killcare and Copacabana SLSC's would each cost as follows:

SYSTEM FOR ONE SURF CLUB

1980W BP Solar Grid Connect Photovoltaic System (installed)	\$23,330-00
1000W Soma Wind Generator + guyed 6.5m tilt tower mounted on roof of club (somehow) plus SB1700 inverter fully installed	\$11,200-00
Educational signage to satisfy PVRP grant (estimate)	\$500-00
TOTAL INSTALLED EQUIPMENT COST	\$35,030-00 INC GST
ENERGY AUSTRALIA COST FOR METERING (estimate)	\$396-00
SALE OF REC's	\$990-00
PVRP Grant for Community Buildings	(\$11,665-00)

ESTIMATED NET COST **\$22,771-00**

OPTIONAL EXTRA

SMA WEB BOX \$2250-00

The web box connects the system to the internet so that the system parameters including energy generated can be viewed on-line.

ESTIMATED ENERGY PRODUCED = 3400KWH/ANNUM

ESTIMATED GREENHOUSE GAS REDUCTION = 3400KG/ANNUM.

NOT INCLUDED IN THE COSTING AT THIS STAGE IS A STRUCTURAL ENGINEER'S ANALYSIS THAT MAY BE REQUIRED FOR THE CLUB HOUSE TO SUPPORT THE WIND GENERATOR TOWER.

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WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

Committee Report

**102 Tuggerah Lakes Estuary Coastal and Floodplain Management
Committee**

F2004/07986 ED

SUMMARY

Reporting on a recommendation from the Tuggerah Lakes Estuary Coastal and Floodplain Management Committee.

RECOMMENDATION

That Council request the State Emergency Service to prepare an appropriate emergency response plan to address significant coastal erosion events.

BACKGROUND

At its meeting held on 6 February 2008, the Tuggerah Lakes Estuary Coastal and Floodplain Management Committee considered the matter of recent erosion at North Entrance beach. The Committee viewed photographs of beach erosion and damage to properties that had occurred on the morning of 6 February.

It was also noted that some of the residents had considered placing rocks or even cement along the eroded dune front to protect their residences should they be in danger. This type of response has occurred previously such as following the 1974 storms. Normally, works such as these would now require a development approval within the erosion zone of the beach however, depending on the particular location, may be prohibited under DCP 2005 Coastal Zone Chapter 77. In the event of a declared emergency, coastal erosion control measures would come under the responsibility of the State Emergency Service. Nevertheless, any measure should be accompanied by appropriate coastal engineering and geomorphological advice to avoid creating additional problems such as erosion of other properties that would otherwise be safe. This would require a contingency plan to be formulated prior to any emergency.

The natural function of the foredune along the beach is to act as a sacrificial sand store during periods of erosion. The beach and the sand dune will be replenished during the longer periods of smoother seas following these events. The placement of any structures, such as rocks, fences, retaining walls and even landscaping can impact in many ways and exacerbate the erosion process. Current best practice is to avoid structures within this zone and to encourage dune restoration. This will in turn protect dwellings.

**Tuggerah Lakes Estuary Coastal and Floodplain Management Committee
(contd)**

The Committee suggested that homeowners be advised against putting rocks or other materials on the erosion scarp to stabilise sand as this is both dangerous and not effective. However, it also raised the issue that an emergency response plan could be developed and that current best practice should be considered as this is very different to past measures such as dumping rock. Residents should then be made aware of this plan and appropriate coastal engineering and geomorphological advice can be sought. The Committee therefore wished to recommend to Council that the production of an emergency response plan be considered. As a result it decided:

“That the Committee recommend to Council that an emergency response plan be investigated.”

General Manager's comment:

Council would need to consider a number of issues associated with the potential development of such a plan. These include:

- All dwellings along the coastline are currently considered safe. The only losses to properties have been associated with fences, landscaping and unapproved structures. Although the media have highlighted several issues recently, there is currently not and has not been in recent years, an emergency issue.
- Under the Displan, the SES is responsible for coordinating the evacuation of persons in danger during storm and tempest events. Should it consider measures to protect against beach erosion, then it could be the responsibility of the SES to prepare a Response Plan. The SES may, however, rely on Council for implementation. Both the preparation of the Plan and its implementation has significant cost implications.
- The Coastline Management Plan will consider the issue of potential emergency response measures from a strategic perspective and propose options for consideration.
- Erosion of the foredune can extend into residents yards, such that protection measures could be placed on private property. The liability for such action and for any ongoing implications would need to be considered.

Information Reports

The following information reports are to be dealt with by the exception method.

103 Wallarah 2 Coal MineF2006/01080 GV:NL

SUMMARY

Reporting on correspondence sent by David Harris MP to the Minister for Planning on behalf of his constituents in relation to the proposed Wallarah 2 Coal Mine.

RECOMMENDATION

That the report be received and the information noted.

At its meeting held on 26 September 2007 Council considered a Notice of Motion regarding the potential impacts of coal mining. At that meeting Council resolved:

"That having regard to the State Government Strategic Inquiry into the Potential Impacts of Coal Mining in Wyong Shire, that Council:

- 1 *Extends appreciation to many Shire residents, both in the Valleys and in neighbouring communities, for their extensive involvement in the Inquiry process.*
- 2 *Congratulates 'The Australian Coal Alliance' and 'Stop Korean Coal Mining Group' for its considerable effort in presenting a particularly outstanding and well researched submission as commented on by the Chairperson of the Inquiry.*
- 3 *Extends appreciation to the Member for Wyong, Mr David Harris for his unswerving opposition against any additional/new coal mining within the boundaries of Wyong Shire and for his strong submission against the proposed Kores mine to the Strategic Inquiry, and*
- 4 *Reiterates its concerns for the potential impacts of coal mining:*
 - a *within our essential water supply catchments;*
 - b *under the Tuggerah Lakes;*
 - c *to existing residential communities; and*
 - d *to proposed industrial, commercial or residential areas.*

Wallarrah 2 Coal Mine (contd)

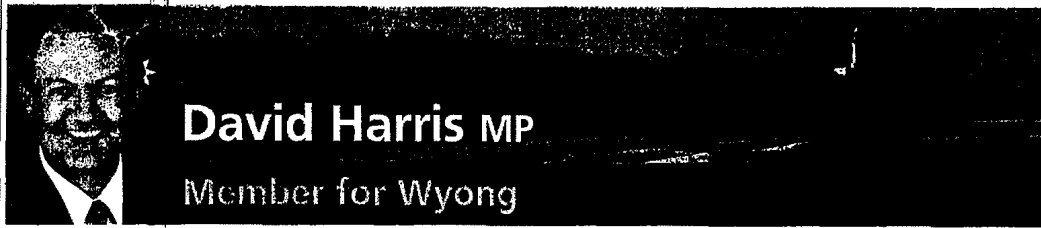
- 5 *Council formally write to the Member for Wyong, Mr David Harris thanking him for his strident opposition to this challenging issue.*
- 6 *Council also recognise the significant contribution of this issue, made by former Mayor and patron, Councillor Bob Graham.*
- 7 *Council write to both the Federal Government and Federal Opposition calling on them to formally state their positions in relation to the proposed Kores Coal Mine and what proposed actions they would take on coming to office in the new Government."*

A further letter from David Harris MP to the Minister for Planning, the Hon Frank Sartor, is attached.

Attachment 1

Letter from David Harris MP (2 pages)

Wallarah 2 Coal Mine (Attachment 1)



REF:Ohrminingsartor80208.let

The Hon F Sartor
Minister for Planning
Level 34, GMT
1 Farrer Place
SYDNEY NSW 2000

8 February 2008

Dear Mr Sartor

I am writing on behalf of my constituents and local business people who oppose the proposed Wallarah 2 Coal Mine.

I understand that a recent inspection of the Nepean River has revealed that a half kilometre stretch between Douglas Park and Menangle is bubbling with methane, released as a result of long wall mining in the vicinity (ABC News January 31st 2008).

I wish to convey my grave concerns about the cracking, particularly how this relates to the proposed Wallarah 2 Coal Mine on the Central Coast.

The cracking has occurred, despite guarantees by BHP/Billiton that they had learnt from mistakes made when cracking occurred in the riverbed of the Cataract River. It appears that this has taken place after long wall mining in the area, similar to what is being proposed in the Wyong Valleys.

I would assume that all the necessary Environmental Impact Studies, which would have needed to be done before the project was approved, were carried out. These studies would be similar to the ones required before the Wallarah 2 Project would be approved. Unfortunately, it appears that these studies are not adequate to prevent cracking, as the problem has occurred in more than one area. BHP/Billiton has not been able to prevent such cracking despite their best efforts and promises.

The new Mardi-Mangrove Pipeline Project to connect the Wyong River/Jiliby Creek Catchments with the Mangrove Dam is costing over \$80 million. This will be a white elephant if the catchments are polluted by the effects of Long Wall Mining subsidence such as has occurred in the Nepean/Cataract.

This puts 50% of the Central Coast's Water supply at risk and defeats the purpose of the pipeline's construction.

Electorate office: 243 Main Road, Toukley • Mail: Po Box 31, Toukley NSW 2263
Phone: 4397 1000 • Fax: 4397 1012 • Email: wyong@parliament.nsw.gov.au



Wallarrah 2 Coal Mine (Attachment 1) (contd)

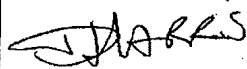
Whilst not intending to be an alarmist regarding this new cracking, I believe it is a barometer for the potential impact of mining in the Wyong Catchments.

It is absolute evidence that long wall mining, as proposed in the Wallarah 2 submission should be rejected by the government.

There is a definite threat to the Central Coast's water supply. Wider negative economic implications, such as air quality and impact on land values caused by the proposed Coal Loader in the Wyong area, exacerbate the issue.

Wyong area does not need duplication of the problems that have arisen in the Cataract/ Nepean catchment area, due to long wall mining. Therefore, I believe that the Wallarah 2 proposal should be rejected.

Yours Sincerely



DAVID HARRIS MP
Member for Wyong

cc The Hon M Iemma
The Hon I Macdonald
The Hon N Rees

12 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

104 Disclosure of Interest Returns

F2007/01540 ED

SUMMARY

In accordance with Sections 449(1) and (5) of the Local Government Act, 1993 Disclosure of Interest Returns for Councillors and Designated Persons have been lodged with the General Manager. Section 450A(1) requires the General Manager to keep a register of the Disclosure of Interest Returns lodged. Section 450A(2) requires the Returns lodged with the General Manager under section 449(1) to be tabled at a meeting of Council. Section 450A(2)(a) requires the returns lodged with the General Manager to be tabled at the first meeting held after the last day for lodgement under section 449(1). The last day for lodgement is within 3 months of becoming a Councillor or Designated Person.

RECOMMENDATION

That the report be received and the information noted.

BACKGROUND

In accordance with the Local Government Act 1993, staff are required to lodge a Return within three months of being appointed to a designated position. Councillors and staff are also encouraged to lodge an amended return if circumstances change during the year.

Attachment 1 details any new designated persons and any amended returns from 1 October 2007 to 29 February 2008.

Section 450A(2)(a) also specifies that the General Manager must table the returns lodged under Section 449(1) at the first Council meeting held after the lodgement of the returns required by section 449(1) of the Act. The returns for the period 1 October 2007 to 29 February 2008 are now tabled.

In future any amended returns or returns from designated persons or Councillors will be tabled at a Council Meeting on a quarterly basis. Returns will therefore be tabled at the first Council Meeting in April, July, October and January of each year.

This will ensure that Council is abiding by sections 449 and 450A of the Local Government Act 1993.

Attachment 1

Disclosure of Interest Register - 1 October 2007 to 29 February 2008 (1 page)

Disclosure of Interest Returns (Attachment 1)

Disclosure of Interest Register 1 October 2007 to 29 February 2008

Designated Persons – Council Staff

Bros, Stephanie
Casimiro, John
Cocks, Troy
Cummins, Bob
Dicks, Tony
Domingo, Melanie
Fairley, Shannon
Fawcett, Sian
Fulcher, Robert
Hamer, Gary
Hills, Ian
Hinds, Jody
Jones, Beth
Kelaheer, Justin
Knight, Leanne
Kowalski, Barbara
Marynissen, Paul
McKenzie, Deb
Millar, Linda
Pennisi, Santina
Persson, Len
Prior, Gordon
Rose, Sandy
Rumbel, Brownyn
Sherar, Brett
Taylor, Jamie
Vereker, Gina

Designated Persons - Contractors

Mallison, Graham
Martin, Kristy
Purss, James
Rayner, John
Schroder, Warick

12 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

105 Outstanding Questions Without Notice and Notices of Motion

F2008/00003 MW:SW

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

RECOMMENDATION

That the report be received and the information noted.

Question Asked	Asked By	Meeting Asked	Department
Q110 – Purchase of a 3D Fly Through Planning System (Investigations have commenced and a response will be reported once costings have been received)	Councillor Stewart	31 October 2007	Shire Planning
Q114 – Float trikes (A response will be reported when a response has been received from State Member for Swansea, Mr Coombes)	Councillor Welham	14 November 2007	Shire Planning
Q123 - Darcy Smith Court Case (A response will be reported to Council when the case has been finalised in the LEC)	Councillor Pavier	12 December 2007	Shire Planning
Q005 – Maintenance Program on the Jubilee Oval (A response will be submitted to Council at the 26 March 2008 Ordinary Meeting)	Councillor Stewart	13 February 2008	Shire Services

Outstanding Questions Without Notice and Notices of Motion (contd)

Question Asked	Asked By	Meeting Asked	Department
<p>Q006 – Misuse of Ratepayers Fund</p> <p>(A report will be submitted to Council at the 26 March 2008 Ordinary Meeting.)</p>	Councillor Best	13 February 2008	General Manager's Unit
<p>Q008 - Demolition of Burnt Out Houses in The Entrance Road and Bayview Avenue</p> <p>(A report will be submitted to Council at the 9 April 2008 Ordinary Meeting)</p>	Councillor Stewart	27 February 2008	Shire Planning
<p>Q009 - Application of Special Rate to Fisherman's Wharf, The Entrance</p> <p>(A report will be submitted to Council at the 26 March 2008 Ordinary Meeting)</p>	Councillor Stewart	27 February 2008	Corporate Services
<p>Q010 - Commencement of Council meetings at the allocated time</p> <p>(A report will be submitted to Council at the 26 March 2008 Ordinary Meeting)</p>	Councillor Graham	27 February 2008	Mayor's Office
<p>Q011 - Effects of dredging on Islands in The Entrance Channel</p> <p>(A report will be submitted to Council at the 26 March 2008 Ordinary Meeting)</p>	Councillor Pavier	27 February 2008	Shire Services

Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
326 - National Natural Disaster Funding Report required on climate change impacts.	Shire Planning	8 August 2007	A report will be submitted to Council when response from Department of Environment and Climate Change (DECC) is received.
440 – Drainage on Tuggerah Straight	Shire Services	31 October 2007	A report will be provided when responses received.
470 – Ferry Service between Wyong and The Entrance	Shire Planning	14 November 2007	Report to be submitted following exhibition.
471 – Strategic Direction of Fire Services	Shire Services	14 November 2007	A briefing was held on 5 March 2008.
497 - Air Quality	Shire Planning	28 November 2007	A briefing has been scheduled for 12 March 2008.
009 – Fairer Beach Access for Dog Owners	Shire Planning	23 January 2008	A report will be submitted to Council at the 9 April 2008 Ordinary Meeting.

Motion of Urgency	Department	Meeting Resolved	Status
042A – Motion of Urgency - The Entrance Peninsula Planning Strategy and The Entrance Road, Long Jetty	Shire Planning	13 February 2008	A letter has been sent to the RTA requesting the immediate release of its plans for The Entrance Road, Long Jetty
042B – Motion of Urgency – Proposal by EnergyAustralia to install High Voltage Overhead Power Lines	Shire Planning	13 February 2008	Briefing was held on 20 February 2008. A submission is currently being prepared in accordance with the recommendations from the briefing.

WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

General Manager's Unit

Answers to Questions Without Notice

Q007 – Australia Day 2008

Asked by Councillor Best at the Ordinary Meeting held on 13 February 2008.
F2004/06176

“Mr General Manager, as the strict interpretation of the use of Questions Without Notice now prohibits Councillors from requesting any actions, could you please provide information as to whether any formal correspondence or appreciation has been circulated to those responsible for the outstanding and highly successful recent Australia Day events, in particular at Wyong, Canton Beach and The Entrance?”

Yes, this had been actioned by the Mayor prior to this question.

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WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

106 Notice of Motion - Expedition of Toukley Planning Strategy

F2004/07926 MR

Councillors G P Best and D J Eaton have given notice that at the Ordinary Meeting of Council to be held on Wednesday, 12 March 2008 they will move the following Motion:

- “1 *That having regard to the continued decline of the Greater Toukley District ie (Toukley East, Canton Beach, Toukley CBD) Council redouble its efforts to resource and expedite Toukley's revitalisation program.*
- 2 *That Council formally recognise the significant planning driver, “The Wyong Shire Settlement Strategy” as a KFA (key focus area) for Council's Planning Department and that this KFA be adequately resourced. Further this KFA now be included in the 07/08 – 08/09 Management Plans.*
- 3 *That Council investigate the concept of an icon project for Toukley District that would act as a development/confidence catalyst, similar to initiatives both private and public implemented in The Entrance Revitalisation Strategy throughout mid to late 90's.*
- 4 *That staff report to Council on the now completed Toukley Economic Feasibility Study.”*

GENERAL MANAGER'S COMMENT

By letter dated 11 May 2006 the Department of Planning advised Council that “one of the key responses to the Central Coast Regional Strategy (CCRS) that Wyong Shire Council will be required to make will be to show how the anticipated future population growth over the next 25 years can be accommodated.....Council cannot demonstrate a Shire-wide response to housing future population by considering an individual centre strategy in isolation.” On this basis, Councillors decided to defer the Toukley Strategy until the final CCRS is released by the Department of Planning. The Department has advised that this will occur in the first half of 2008.

The Department has made it clear that any Planning Strategy for Toukley will need to address the Shire-wide population growth and CCRS centres area breakdown. The steps Council has already taken to ensure its strategic planning is in accordance with the Department's direction are as follows:

- Council has completed a Population Capacity Project to assess current strategies against the nominated population targets in the Draft CCRS.

Notice of Motion - Expedition of Toukley Planning Strategy (contd)

- Council has commenced its comprehensive LEP review and the tool to address this is the Shire-wide Settlement Strategy. This Strategy is already underway and will take some 18 months to be finalised as a number of issues across the Shire need to be addressed in that Strategy. Funding for issues to be investigated within the Settlement Strategy have been included in the draft 2008/2009 Management Plan. Until this Strategy is adopted, the Department of Planning is unlikely to endorse an individual precinct based work.
- The timing constraints discussed above mean that the Toukley Planning Strategy is not a short-term solution to the issues currently being experienced in Toukley and its surrounds. It is not until the planning strategy is implemented through the preparation of LEP's, DCP's, Section 94 Plans, then Development Applications are received, approved and built, that sufficient changes in the built environment of an area may bring about substantial economic change.
- Councillors would be aware, that to be effective an appropriate planning strategy encompasses two parts, one being the abovementioned planning documents that enable significant land use change and the other being the urban design strategy which incorporates a program of public realm improvements and upgrades to complement and enhance the experience of the area as people move through and utilise the area as residents and visitors. The strategies previously adopted by Council for The Entrance and Wyong/Tuggerah incorporated both elements and the implementation of both elements is necessary to create meaningful revitalisation of any precinct.
- Consideration of an "icon" project for Toukley therefore needs to form part of the development of an overall consolidated planning strategy for Toukley.

WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

107 Notice of Motion - Pipeline Corridor Quarantine Zone

F2006/01080 MW

Councillors G P Best and D J Eaton have given notice that at the Ordinary Meeting of Council to be held on Wednesday, 12 March 2008 they will move the following Motion:

“That as the new \$100 Million Mangrove Mardi water transfer pipeline is a project of regional significance and is also recognised as economically and socially vital infrastructure, Council make urgent representations to Planning Minister Sartor, formally requesting the proposed pipeline corridor be quarantined from mining due to the extensive subsidence predicted by KORES, the mine proponents.”

WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

108 Notice of Motion – Warnervale Town Centre Exhibition

F2004/00535

Councillors G P Best have given notice that at the Ordinary Meeting of Council to be held on Wednesday, 12 March 2008 he will move the following Motion:

"That Council make a submission to the Warnervale Town Centre Exhibition particularly in relation to density, gradients, proliferation of residential flat buildings and similar planning issues."

WYONG SHIRE COUNCIL

12 March 2008
To the Ordinary Meeting of Council

109 Notice of Motion – Council’s Landholdings

F2004/00535

Councillor D J Eaton has given notice that at the Ordinary Meeting of Council to be held on Wednesday, 12 March 2008 he will move the following Motion:

"That a report be provided on Council’s landholdings in the Warnervale area including details of current and projected use, zonings and value."

12 March 2008
To the Ordinary Meeting of Council

110 **Notice of Motion – Submission for Black Spot Funding**

F2004/06312

Councillor W Welham has given notice that at the Ordinary Meeting of Council to be held on Wednesday, 12 March 2008 he will move the following Motion:

- "1 *That Council formally make submission to the black spot funding program for:*
 - a the roundabout intersection of Wyong Road and Tuggerah Straight*
 - b The Cobbs Road/F3 Interchange*
- 2 *That Council advise the Roads and Traffic Authority (RTA) that it has taken this action because of its extreme concern of the potential for a fatality to occur at both of these locations.*
- 3 *That staff report to Council relevant data to support the submission including traffic volumes and accident history."*